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## THE FUTURE OF LIBERTY



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# THE FUTURE OF LIBERTY

BY

GEORGE SOULE

*Author of "The Coming American Revolution"  
and "A Planned Society"*

NEW YORK  
THE MACMILLAN COMPANY  
1936

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*Set up and electrotyped. Published October, 1936*

**PRINTED IN THE UNITED STATES OF AMERICA**  
NORWOOD PRESS LINOTYPE, INC  
NORWOOD MASS U S A

To all those obscure persons who have given their best to an enlargement of human experience, and particularly to those who have suffered in defense of liberty.



The writer gratefully acknowledges permission from the University of North Carolina to include in this book the substance of his lectures on the Weil Foundation on American Citizenship, delivered there in 1935. He is also indebted to Harper's Magazine for permission to reprint Chapter 8, and to The New Republic for permission to use many passages which have appeared in its pages.

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“The shepherd drives the wolf from the sheep’s throat, for which the sheep thanks the shepherd as his liberator, while the wolf denounces him for the same act, as the destroyer of liberty, especially if the sheep was a black one. Plainly the sheep and the wolf are not agreed on a definition of the word liberty; and precisely the same difference prevails today among us human creatures.”

—ABRAHAM LINCOLN, in address  
at Sanitary Fair, Baltimore,  
April 18, 1864.

## I. CHANGE AND THE AMERICAN TRADITION

THE minds of Americans are deeply troubled nowadays by a conflict of ideas—the conflict between necessity for change and loyalty to American tradition.

We cannot look in any direction without observing perils threatening our society. The earlier promise of American life has been betrayed by the existence of millions of unemployed industrial workers, by the expropriation of farmers and other classes of property owners, by the disappearance of capital, and by the dependence of a large part of our population on governmental assistance. There is no assurance that similar disasters may not occur in the future. We have engaged in one world war, and are daily threatened by the suicide of another. There have been few periods in history when men and women were menaced by more confusion and peril. The ignominy of this situation is impressed upon us when we remember that it is not the outcome of an uncontrollable cataclysm of nature—except as man himself is regarded as part of nature. Though we have suffered earthquakes, droughts or floods, these have not brought us where we are. It is the result, almost exclusively, of human ways of acting and thinking. Somehow or other, the conceptions on which our action is supposed to be based, the forms of organization which we have built up, have either failed to control our be-

havior, or, if they have controlled it, have done so to little purpose.

The hope that we may blunder through to a temporary period of better fortune is enough to satisfy the more complacent; signs of "recovery" are continually cited to bring us courage. But it is axiomatic that if the modes of behavior that brought us to our recent misfortunes are continued unchanged, any better outcome in the future will give way in the end to a similar and possibly a worse calamity.

To change our fortune we must change our minds. General recognition of this fact has brought forth many suggestions for alteration in our institutions. Insistent pressure from the logic of events, working upon the deepest needs of the personality, forces us to consider new arrangements of society.

But here arises the conflict. Any suggestion of basic change offends our loyalty to the concepts on which we suppose our culture to have been founded. Assertion of the rights of life, liberty and the pursuit of happiness, belief in democracy and in its American constitutional expression, faith in the perfectibility of the individual, trust in reason and science as the basis of assurance and in persuasion as a method of bringing about action in a free society, run deep in us. We are the inheritors of a powerful liberal tradition; it was in the period when these ideas were flowering most luxuriantly that this nation achieved its independence and adopted its form of government. We look abroad at the peoples that have made great changes in response to contemporary crises, and see that liberty and democracy in our sense of the words do not

there exist. Both Fascism and Communism, though they are at opposite poles of doctrine in their major tenets, express contempt for liberalism. Many Americans, aroused by these challenges to old loyalties, forget the plight we ourselves are in, and talk as if the exclusive purpose of this nation were the negative one of avoiding what they conceive to be these new foreign dangers. Indeed, they are so moved by the call to protect our traditions that they attempt to avoid every change by exorcising it with one of the current vocabulary of bad names. William Randolph Hearst, for example, warns against "pestilent innovators." Even in more sober circles, relatively moderate innovations are suspect merely because they are innovations. New statutes have to pass the scrutiny of judges who examine them, not primarily to determine whether they will serve the social purposes that seemed good to the supposedly democratic agencies that enacted them, but rather to adjudicate their conformity to the constitutional framework of that democracy. The conflict between our need for change and our traditions gives us a national bad conscience and confuses our counsels.

This dilemma is not merely one of words, it is not one that begins and ends in ideas unconnected with the practical world. It appears again and again in problems of action. Let us take a common example. The citizen begins with the simple faith that the all-important task is to protect American liberty against those who desire to destroy it. An agitator comes into his community, helps to organize the workers and leads a strike for higher wages and better conditions. The local citizen is told that this agitator believes in Communism. The strike is con-

ceived, both by him and by its leader, as in some sense a challenge to existing institutions. A court enjoins picketing. Police and troops are called out to suppress it. Public opinion is mobilized against the strikers by the newspapers. A band of vigilantes kidnaps the leaders and forces them out of the community by violence or threats of violence. Subsequently our good citizen supports so-called "criminal syndicalism" bills to punish mere membership in any organization that is supposed to teach the necessity of change in our form of government by violent means; possession of revolutionary literature is made a crime. What in fact has he done?

In the name of American liberty he has violated every one of its basic tenets. He has suppressed, in the interest of employers, an initial gesture toward democracy in industry. Not only is democracy denied, but equality also; even equal rights before the law are violated by the use of courts, police and military against the less fortunate party in an economic dispute. Further, he has himself broken the law and transgressed the principles of civil government by exercising private violence. He has abandoned reason and discarded persuasion by forceful suppression of the labor controversy, without any fair adjudication of the issues involved. He has also, by the laws he espouses, denied free speech and freedom of the press. He has made it possible for the Communist agitator to prove to the workers through their own experience that liberalism is merely a mask for the dictatorship of capital, that the liberal, in a crisis, turns into a Fascist, and that the only real choice is between Fascism and Communism. The effort to protect a static conception of

liberty has succeeded merely in making inevitable the destruction of liberty.

It is no answer to say that if we did not fight against revolutionaries, they would in the end destroy liberty anyway. If that is true, liberty is lost by either course. It is exposed as something that cannot be maintained in the modern world. If liberty cannot be protected without fighting enemies of liberty, and if fighting these enemies means abandoning liberty, then the conception of liberty is meaningless in fact, and cannot be a trustworthy guide to action.

Conflicts of liberties are not always so sharp and dramatic as this, and they occur continually throughout the warp and woof of our society. Shall the liberty of automobile drivers be restricted by traffic regulations, and if so, how far shall that restriction go? Shall the liberty of individual farmers to settle where they like, grow what they like, and manage their farms as they see fit, be restricted in the interest of higher prices for crops or in the effort to prevent loss of the nation's soil through erosion? Shall freedom of the press be restricted in the interest of discouraging immoral influence on the young? Shall the liberty of speculators on stock markets be restricted in the interest of innocent investors? Neither an abstract belief in liberty nor an abstract belief in regulation offers much help in the solution of such difficulties.

• The examples to which we have referred are not irrelevant and isolated ones; they are typical; they reveal a basic confusion in the symbols that determine our social behavior. The same issues arise whenever we try to deal



with a practical situation which demands organization, regulation, or decision—and what situation does not? Some purpose must be sought, some compulsion must be exercised, someone must make a decision. But when purposes conflict—as they frequently do—the making of a decision obstructs the purpose against which the compulsion is exercised. Somebody's liberty to do something must be denied if any action is to be taken. This truth applies to all rules and all social institutions, from a baseball league to a national political government.

It is difficult to overestimate the importance of the problem that this conflict presents in a period of social crisis. Shall we abandon utterly our traditional conceptions in the interest of a new social order? Or shall we regard them as final, unquestionable dogmas, in the interest of which all thoughts of real change must be suppressed? Or do they contain a truth to which our actual development has been false, a truth that, reinterpreted, may guide our action?

At this point it is prudent to make a brief excursion to reveal the bias of the writer. Social questions are too often discussed without such frank revelation. For instance, the adherent of the economic principles of Adam Smith—a master propagandist if ever there was one—is likely to assume that while his attitude is calm, objective and scientific, any opposing point of view distorts the argument in behalf of a cause. No vulgarity is more common than to attack all “isms,” as if the speaker himself were not defending, let us say, Americanism or liberalism, as if there were any ground for attacking anything whatever except on the basis of human desire and a system

of thought that grows up about it. The most deceptive bias is that which is not acknowledged. Therefore it is an essential part of candor, indeed of the scientific method itself in the so-called social sciences, to acknowledge one's prejudice somewhere near the beginning.

My bias is democratic and liberal. The words of the Declaration of Independence have always aroused my enthusiastic loyalty. I take pride in the origin of this nation as the expression of a new faith in the destiny of mankind. I believe in the right of the individual to seek his own fulfillment, in equality of status, in the attempt of man to control his own destiny instead of having it controlled for him by some representative of hereditary right or superhuman revelation. I believe, not in blind submission, but in mutual respect among upstanding individuals. I believe in the right to question all creeds and institutions in the light of reason, in a continually recurring need to reject and build anew. I believe in the legitimacy of revolution: not merely the revolution that my forefathers helped to make in the eighteenth century, but any new revolution that may be justified by the interest and reason of the common man.

The Declaration of Independence begins with mention of "the course of human events" and the necessity for dissolution of traditional bonds. There is here an affirmation that human events move and that the movement sometimes demands fundamental change. It declares further:

\* We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights,

Governments are instituted among Men, deriving their just powers from the consent of the governed, That whenever any Form of Government becomes destructive to these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.

General as these words are, and difficult as they are to interpret in specific cases, they mean something that is precious even in the modern world. It is true that we do deprive men of life or liberty even in the literal sense every time we deal with a criminal. The pursuit of happiness is limited by a tangle of obligations and restrictions. We know that men are not equal in native gifts or in the rewards to which their activity entitles them. Nevertheless, there is something in the direction toward which these affirmations point that adds to the dignity and meaning of life. We could not enthusiastically assent to the contraries: that men have no rights, that they must be compelled to suffer death, slavery and pain, that inequality is natural and desirable.

The more sober statement of our civil liberties in the Bill of Rights embodied in amendments to the Federal Constitution is likewise worth repeating, as an expression of the safeguards against tyranny that are still of primary value. We must admit the tortured interpretation that courts have often given to the "due process" clauses, we must acknowledge that in practical application these generalities are often distorted beyond recognition by expansion in some cases and restriction in others. People are subjected to unfair trials, heavy bail, cruel punish-

ments; freedom of speech and assembly is often forbidden. We cannot forget Mooney and Billings, or Sacco and Vanzetti. Every year sees its long list of lynchings, of violent suppressions. Nevertheless the principles still mean something.

#### ARTICLE I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the Government for a redress of grievances.

#### ARTICLE IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

#### ARTICLE V.

No person shall be held to answer for a capital or other infamous crime unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life and limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.

#### ARTICLE VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State

and district wherein the crime shall have been committed, which districts shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process of obtaining witnesses in his favor, and to have the assistance of counsel in his defense.

#### ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

#### ARTICLE XIV.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Now it may be that these principles themselves are irrational or contradictory. As Carl Becker has told us in his "Heavenly City of the Eighteenth Century Philosophers," the founders of liberalism may have been performing a magician's trick in transferring divine sanction from the rule of kings and the lords of the church to the "unalienable" rights with which, in Thomas Jefferson's words, men have been "endowed by their creator." We have learned from candid historians like Charles A. Beard that the motives of the early Americans were not all pure and not all the same; economic interests played a large part both in their revolt against England and in the subsequent

formation of the Constitution, a document that attempted the difficult and probably impossible compromise of protecting propertied interests while giving expression to Jeffersonian democracy. The history of the republic is in itself a most inadequate embodiment of the aspirations with which it began, and particularly so in recent years. In spite of all this, there is an ineradicable confidence that somehow or other such words are valid; that they provide, if properly defined and applied, an indispensable frame of reference and a standard of values. If the sort of faith that is embodied in these words is not a basis of social judgment, I do not know where to find another that I can accept.

This confession is important not just as the acknowledgment of a personal vagary that may have to be discounted in reading this book. It is also important because of acceptance among the generality of those who will have to act or lead action in the United States. Every personality, in order to find psychic security, has to organize itself about symbols of faith. When we drift along with a smooth current, these symbols may be submerged; the need of self-organization may be satisfied by the merest empty formula, seldom invoked and never examined. But when rough waters threaten to tear us apart; when external misfortunes create emotional disturbances, we seek ardently a set of beliefs about which we can integrate ourselves; we reject as vehemently those symbols that do not seem to fit this integration. "As long as a man remains seriously divided within himself, he does not, he cannot act." Those who carry the day in a crisis are those whose minds have become crystallized, tem-

porarily at least. This explains the importance, in revolutionary periods, of the leader or the leading idea. Regardless of the objective substance covered by the labels that we accept, we defend them as final and unquestionable truth. And the symbols to which we turn are likely to be, in some form or other, those that have aroused our loyalty in an impressionable period. For better or for worse, the symbols that are most potent in this country are those that are found in our tradition. Whatever is done about them, they cannot be ignored by anyone who is long going to influence us as a people.

By the same token, however, it is equally important to attach these symbols to a kind of action that will satisfy continuing needs. If words like liberty and democracy are appropriated by the standard-bearers of opposition to all change, they may succeed for a period in freezing existing institutions. But if existing institutions will not feed us and clothe us, if they make us a nation of economic slaves and allow no room for the growth of the personality, we shall have suffered a false and superficial integration, which cannot endure. It is important, in an objective sense, what is done in the name of our faith, and what its effectiveness is. In 1917 we fought a war to make the world safe for democracy, a war to end war. Let us be careful that a contemporary crusade for liberty does not lead us to an equally disastrous betrayal.

We proceed, then, on the following assumptions. Drastic change may be necessary for mere survival, to say nothing of more elaborate objectives. The conflict between the need for change and our traditional symbols of faith must somehow be allayed. An abolition of this

conflict that involves a suppression of the faith is unlikely. Even if it occurred, the kind of change that resulted would be inferior because of its loss of whatever was valid in the faith. Abolition of the conflict by the victory of the faith over change would be a denial of needs as imperative as the faith itself. What we have to do is to re-examine and interpret the faith in such a way that it will allow room for the change, to do so, indeed, in a manner that will help to compel the change.



## 2. WHAT IS LIBERTY?

WHAT is liberty? The quick answer is that it is the absence of restraint upon the individual. But with a moment's analysis that conception disappears into the fog.

Suppose there were no society to impose restraints; imagine a man alone in a wilderness. Would he be free? He would not, of course, have to obey a king or a policeman. But what he could do or refrain from doing would depend upon certain definite conditions. It would depend upon his physical environment and his own capacity for dealing with it. He would not be an omnipotent person. He could not lazily wonder whether he preferred to see the opera or read poetry or drive sixty miles an hour in a car. He would be harassed by hunger, cold, heat, dangers and discomfort of many sorts. The only freedom he could win would be the result of a process of rigorous discipline, of a purposeful organization of activity. Its uttermost limits would be set by the extent to which he could provide himself, under the circumstances, with physical necessities, and its price by the time and effort that were required to do so. If he had any leisure, that leisure might, in a limited sense, be comparable with our more sophisticated sense of liberty.

There is also a problem of liberty within the individual in society, though a problem apart from the imposition

of governmental restraints. It is not possible for the single personality to exercise an anarchic freedom; any attempt to do so is likely to lead to physical or mental disintegration of that personality. The process of choice is by its very terms a process, not only of acceptance, but of exclusion. A man who chooses to be a doctor cannot also choose to be an engineer. He cannot choose to be either without setting aside other pursuits that a rigorous intellectual discipline forbids. Liberty, even within the individual, is not an irresponsible ability to choose among an infinite series of possibilities. Choices are arranged in systems and hierarchies; the making of one choice brings after it a series of inevitable consequences. We think of the free personality, not as the neurotic one which is hampered by conflicts between incompatible desires and activities, not as the one that has no continuity and consistency, but as one that is, at least to a large extent, integrated and ordered. Because it is effective, it conveys a sense of ease and power.

In saying this, we must avoid a misunderstanding. There are some personalities, like some states of society, that act and speak as if they were unified, but really are masking the suppression of fundamental disorder by an artificial and feverish assertion of unity. For an individual forcibly to deny the existence of a desire or an impulse that nevertheless persists, for a nation forcibly to suppress a social conflict that nevertheless inheres in the situation, is merely to give evidence of a neurosis or something worse. The fanatic, extreme as may be his concentration, and violent as may be his action, is not a free and ordered person; he is a bundle of prejudices and com-

pulsions that prevent him from acknowledging and dealing with reality. Fascism in states like Italy or Germany, however loudly it asserts national unity, is an artificial unification, produced and maintained by violence, that seeks external destruction and suppresses really vital elements of internal life.

The first premise of any tenable conception of individual liberty must be, therefore, the existence of a coherent individual with ordered needs and purposes. We begin, not with a negative idea like absence of restraint, but with a positive one. But can we apply the negative conception of liberty to the relationship between individuals and society? Can we say that in this realm, liberty is absence of restraint?

A society in which there were no restraints by government would be a society in which there was no government. It would be an anarchy. Such a society is conceivable. But, if there were no government, would not one individual suffer restraints put upon him by another? Would not the weaker suffer from theft, robbery, physical coercion, murder? They certainly would, as long as there was any difference in strength or abilities, and any conflict of desires. In such a society the stronger might be free, but the weaker would be slaves. You could have freedom of a sort, but only for some. As Lord Acton showed, that freedom would be incompatible with another element of our basic faith—equality.

Men are, of course, unequal and different in native gifts; even if this were not so, they would, in any given society, be unequal in environment or luck. In a primitive society without restraints of any sort, the man with

the most ferocious disposition, the strongest muscle and the biggest club might readily be the master. If, by some miracle, a man of strong sympathy and a genius for scientific research or music or philosophy were born into a society so ruled, he probably would not live long; even if he did, he would never have an opportunity to develop his capacities. Society must have restraints if the man with the club is to be prevented from dominating the man with subtler gifts. As a matter of fact, all known societies do have restraints of some sort. It is frequently said that the only kind of equality that a society can or ought to guarantee is equality of opportunity, since men are unequal in capacity. But the question still remains, equality of opportunity to do what? Opportunity to rule by the club? Opportunity to rule by accumulation of profit? Or opportunity to exert influence by the exercise of more humane talents?

If individuals were to have any kind of equality in status and were not protected by laws of a sovereign state, they would have to be protected by a sort of communal agreement concerning behavior, self-imposed by each individual. Individuals would have to restrain themselves. In sum, a society in which there were no restraints whatever upon any individual is inconceivable. Some restraints must be imposed to guarantee an absence of other restraints. They must be imposed either by government or by common consent and self-discipline.

Since liberty itself requires the imposition of some restraint, the question becomes, what restraints shall be imposed, and by what authority and means? Here enters our conception of democracy, which is a corollary of

equality. We do not want the power of decision to rest with a limited or privileged class, because experience has taught that such a class will impose restraints in the interest of its own liberty, at the expense of the liberty of others. It will assume the privileges, leaving to the rest the duties and the sacrifices. Even a benevolent autocracy may entertain a conception of what we should or should not have that is different from ours, and with us rests the right to say what we want. A generalized individual liberty is inconceivable without assuring to every individual a share in the process of deciding what shall be forbidden by governmental or other social rule.

So far, the doctrine of democracy and equality is fairly clear, but at this point there begin to arise disturbing complications. Everyone understands resistance to tyranny imposed by outsiders. But as the idea of political liberty developed, there came a fear of tyranny by any government, representative or democratic as well as autocratic. The minds of the thinkers were still preoccupied with the negative aspect of liberty, with the attempt to avoid restraint. Sometimes this fear of government as such took the form of fear of officials and bureaucrats who, however representative the government might be in form, still were human and concerned to enlarge their own prerogatives. Sometimes it took the form of fear of the majority itself, as if the virtues attributed in theory to the individual did not inhere in those individuals who agreed too freely with too many others. And so we have ingenious devices to make it difficult even for democratic governments to rule too thoroughly or efficiently.

Thus came John Locke's doctrine of the separation of legislative, executive and judicial powers, later embodied in our Constitution. And there is the concept of a constitution or fundamental law itself, which, while resting theoretically on the will of the people, is difficult to change and checks the action of the people and their agents in relation to individuals and minorities. Another phase of this distrust of government was the formula so well expressed by John Stuart Mill, in his "Essay on Liberty," who was concerned with the conflict between individual freedom on the one hand and the social needs of the whole group on the other. He laid down the principle that the government should attempt nothing that individuals could do for themselves, and should regulate individual behavior only in realms where the action of the individual was capable of harming others.

These mechanical and negative conceptions of liberty in society, however, give rise to just as many confusions as the negative conception of absence of restraint in the individual. They continually plague us today. Take the separation of powers, for example. In response to some popular need, the legislature passes a law, and the executive attempts to apply it. But the persons against whose interests the law militates take refuge in the courts on the ground that the law, or the action of the executive under it, is beyond the constitutional power of the government. Now, no constitution can be framed with provision of all eventualities, and so its application in a specific case is often not obvious. The courts resort to abstruse and intricate reasoning, on the assumption that they are expounding the intent of the framers of the

document. The constitution becomes, not the original words printed in the text-books, but what, in a long series of precedents, the courts say they mean. But the margin for differences of judgment in interpreting the constitution is wide—an inescapable inference from the fact that the judges on the same court disagree, that higher courts reverse lower courts, and that even the highest court from time to time alters its position. Thus we discover that the liberty of the people, through their representative government, to remedy a great evil or pursue a policy calculated to bring social benefit is limited by a small group of men who never were elected, who cannot be removed from office, whose individual biases vary with all sorts of incalculable circumstances, and whose judgment of what the government can or cannot do is ostensibly based, not on present social needs, but on their interpretation of powers conferred and limitations imposed under very different circumstances nearly one hundred and fifty years ago. If judicial powers are frequently applied to thwart the will of the majority, the original effort to safeguard liberty will have given rise to an irresponsible tyranny no less hateful than those against which our ancestors revolted. In the effort to check irresponsible legislatures or executives we have set up irresponsible courts—courts without responsibility, that is, to a democratic electorate.

Let us be careful at this point, however, to make no mistake about the cause of the trouble. It is not merely a matter of appointment of the wrong judges, or of deficient legal thinking, or even of the powers of the court. If there were no courts, the legislatures and executives

might indeed transgress liberties, as we traditionally understand them. The trouble is with the basic conception of liberty as absence of restraint, and with the assumption that the chief function of organized society is to protect this negative liberty. Such a conception gives rise to contradictions in society just as inevitably as it does in the individual. Though we have been forced to admit that restraints must be imposed, because there are conflicts among different liberties and among the liberties of different groups and individuals, we have set up no adequate criterion by which to decide what restraints shall be allowed and what liberties shall be restricted. Though we have transferred the right to decide these questions from hereditary or autocratic groups to the people as a whole, still we have limited the democratic government in the interest of an abstract and negative conception of liberty. Restraints on liberty being judged only by reference to protection of liberty, we are penned in by circular reasoning.

Or consider John Stuart Mill's dictum that government should leave the individual free to do what he likes except in such cases as the action of the individual may harm others. This involves the tacit assumption that the individual has legitimate desires and purposes, but that groups, classes or society have none except to safeguard individuals from interference. But what is the individual apart from his social relationships? What purposes and desires can he express in solitary isolation? The greatest restriction that can come to him is absence of the benefits that it is possible to derive from social organization. An unemployed man has all the negative rights that



John Stuart Mill sought to bestow on the individual. He has, at least in theory, the right to go where he pleases, to be protected from violence, to do what he can with his time, to exercise freedom of speech and not to be deprived of life, liberty or property without due process of law. But he does not have the right to earn his living; he is deprived of a functional place in society. What he needs most intensely is not absence of restraint, but a social body into which he can fit, and in which his personality can find expression. To set off the individual and society as opposites, and to be satisfied with society so long as it imposes a minimum of restraint upon the individual, is an arid formula that, under adverse circumstances, kills everything that is worth while in the individual and may indeed deprive him of life itself.

Such a distinction is impossible to apply without involving us in futility and contradictions. Where shall one draw the line between that individual behavior which is legitimate because it can harm no one, and that which may injure others? Logically, there is no privacy that this distinction would not permit government to invade. It was used to justify prohibition, since excess consumption of alcohol is a social injury. It can equally well support restrictions upon freedom of speech or of the press, because what people say or print is clearly capable of influencing action in what someone may believe is a harmful direction. No slightest thought or act is without its social effect, even if it immediately does nothing more than change the character of the individual practicing it. While the doctrine may thus be pushed to extremity on the restrictive side, we often go to an extreme

in failing to prohibit, as when, in the interest of a rather mythical freedom of contract, we decline to legislate against child labor, or shrink from placing other restrictions upon the liberty of business men and financiers, whose actions are obviously capable of bringing grievous injuries to millions.

The difficulty with this principle as a guide to action is traceable to the same source as the difficulty with the doctrines of the separation of powers and constitutional limitation. It involves no definition of purpose except what may happen to be the purposes of isolated individuals. Therefore it provides no criterion by which to judge what illegitimate harm to others is, and what injuries should be prevented. It allows us complacently to permit the atrocious injuries involved in industrial exploitation or unemployment, while interfering with all sorts of minor personal abuses, or indeed forbidding actions which, in the light of a better defined purpose, might appear useful instead of injurious.

Examples of the latter confusion are the most contradictory of all. Certain employees of a newspaper in Newark, New Jersey (the *Ledger*) were recently forbidden by a court to say or print or broadcast over the radio or make known in any manner the fact that because of dissatisfaction with the conditions of their employment they combined in a refusal to work for their employer. This was, in the first place, a denial of elementary freedom of speech. In the second place, it was a restriction upon the liberty of the workers to try to improve their status, because unless they conducted an effective strike, with the public support that is necessarily in-

volved, they would have to accept what the employer offered. This substantial restriction of liberty, imposed by government, was based on the conception that exercise of the liberty in question would harm the employer by exerting illegitimate compulsion upon him. But what of the liberty of the employer to harm the workers? Without a definition of social purposes that is not referred back to the concept of absence of restraint, we have no basis for judging, in a conflict of liberties, what liberties shall be preserved, and what denied. We do not know when compulsion is a legitimate exercise of right, and when it is merely a capricious infliction of injury. If the judge had assumed as a premise that it was socially desirable for workers to combine and exert group pressure to better their conditions of employment, no such absurd restriction of liberty in the name of liberty could have arisen.

The crude judgment of the workers in a situation like this is that the court in fact has a social purpose, and that the purpose is the opposite of theirs. They believe that the court identifies itself with the employing class, and acts to keep down wages in the interest of profits. Whatever the mental processes of the law, this judgment is objectively correct, as far as the results are concerned. Thus is emphasized a further point of the utmost importance. Even if the rationale of our social action is such that we do not consciously seek any purpose, the outcome of what we do is bound to advance or retard the interest of some person or group of persons. We cannot escape social purpose in effect, no matter how much we avoid it in our ideas. There is no such thing as impartiality in government, as long as there are con-

licts of aim among the citizens. If a general social purpose is not defined and acknowledged, therefore, one of two things is likely to happen; either the purposes served in practice will be conflicting and the whole order will be reduced to chaos, or government will serve a purpose which, if it were defined, acknowledged and thoroughly explored, would be quickly repudiated by a majority of the citizens. Thus the merely negative concept of liberty is not only useless, it is also actively dangerous.

### 3. DEMOCRACY, REASON AND PURPOSE

WE saw at the beginning of our discussion that liberty as absence of restraint is antithetical to equality; now we see that it is antithetical to democracy as well, which is the means to equality. This distinction between democracy and liberty as traditionally conceived has often been pointed out, as recently by Harold J. Laski in his article on Liberty in the Encyclopedia of the Social Sciences.

You start with a nominally free society; then by the exercise of economic freedom some men acquire more power than others; a concentration of wealth grows. But economic power is political power. Equality vanishes. The forms of democracy, however, remain. The people continue to have faith in the government as their agency, and periodically try to use it to check the power that wealth has assumed, or try to redistribute the wealth itself. In so far as they succeed, the liberty of rich men is limited; if the masses are to have a lasting victory, the very kind of economic freedom out of which the successful competitors grew must be abolished. On the other hand, the power of wealth is likely to combat these efforts by taking the substance out of democracy. Wealth controls the political parties by paying their expenses, it owns the press and the radio, it exerts the power of the purse over universities and schools, it is able to persuade most of the people most of the time against their

own best interests, and when necessary it can often intimidate its millions of employees. In the end, if hard pressed, it may, as in Italy or Germany, make terms with an ostensibly revolutionary movement that, while leaving organized wealth its technical ownership, will destroy the last vestiges of democracy and liberty among its opponents.

In such a conflict between liberty and democracy, other basic liberal concepts as well degenerate and vanish. We are supposed to have faith in reason as opposed to dogma, in persuasion as opposed to force. The belief that human affairs can successfully be governed by these means is one of the noblest aspirations ever entertained. But this ambition can be achieved, if at all, only under appropriate conditions; we have to admit that it must face enormous obstacles. Where interests differ, reason often becomes rationalization of non-reasoned ends.

Propagandists have discovered that it is usually easier to move large numbers quickly by lies or appeals to prejudice than by truth and appeals to candor. Accurate and disinterested thinking is a rare achievement even among those whose profession it is to pursue it; those who care more about immediate ends than about larger values can readily debase the mental currency of a people. Advertisers of patent medicines are intent upon selling their products rather than upon broadcasting good medical advice; politicians aim to be elected rather than to contribute to political education.

Is there a new cosmetic for sale? The procedure of the advertising agency is not to make a chemical analysis, to tell prospective customers of its real effect upon the

skin, or to compare its selling price with the cost of readily available substitutes. No, the procedure is to think of some association that may be attractive to the public mind, to invent a slogan that will stick in the memory, or to procure a series of testimonials from socially prominent women or motion picture actresses. Is a nation in serious difficulties? The practice of the aspiring demagogue is not to analyze the economic or political reasons for those difficulties and propose a program that has some relevance to the situation. Rather he invokes hostility against scapegoats like Jews or foreigners or Reds or international bankers, he announces a blanket panacea without the slightest conscientious attempt to discover how it would work in practice, he appeals to desire for military glory or dresses up his followers in fancy uniforms and puts on impressive shows. It is futile to deny that people are moved by emotions rather than by cold reason, and that their emotions gather about symbols, slogans and stereotypes. It would be impossible to change the human personality into a reasoning machine, and we would not do so if we could. Nevertheless, reason and candor are also human, and we have a right to hope that they may operate in harmony with emotions rather than in conflict with them. To this end, the symbols about which emotion gathers should have some relationship to objective reality, and action should lead to genuine satisfactions rather than to blind alleys and the dream-worlds of the mentally unbalanced.

Observing the success of those who appeal to the less rational aspects of the human personality, and the apparent futility of those who are intellectually conscien-

tious, we are likely to conclude that reason and science are delusions and must be subordinated to some prejudice or mystic assumption—as the Nazis have done in Germany. Or we are likely to infer that persuasion in behalf of a just cause, carried on candidly, cannot succeed, because people will not be convinced against their interests. Therefore we may decide that social conflicts can never be resolved by persuasion but only by force. If the conditions are such that reason is unavailing, this conclusion is valid. When great class interests oppose each other, it is almost beyond the bounds of possibility that one will voluntarily surrender to the other because it has been convinced—or to put the conclusion more accurately, it is difficult to believe that either side will be convinced by the other against its major interest. Thus liberty, democracy, reason and persuasion all are consumed in one ruinous conflagration.

But let us note carefully that the case against reason is not thus rendered conclusive. Respect for reason must survive at least within the circle of those whose aims are the same. Without the cool and honest calculations of the laboratory, the most aggressive dictator could not have his military weapons. The inner councils of a political party or the general staff of an army must try with great earnestness to understand the actualities of the situation that they face, to arrange its elements in a rational manner. The members of such a council or staff cannot afford to dispense with reason only at their peril; disputes among them can be fruitfully decided, not by bullying, but by consideration of facts and arguments. Thus the truth emerges that the proper climate of reason



and persuasion is substantial unity of purpose. People who agree in general about what they want may be able to develop the ability to think candidly and co-operatively about the means to their common end. Even so, the discipline of reason is a difficult one. But without this integration about a leading purpose, reasonable persuasion is next to impossible.

We have thus been led, in our examination of the concepts that we regard as fundamental in the American tradition, to what seems to me the heart of our difficulty. Negative liberty, liberty as absence of restraint, is meaningless and self-contradictory, whether for the individual or for society. Such liberty, put into action, may eventually destroy equality and negate democracy. It may lead to a class conflict in which reason and persuasion as well vanish until the decisive victory of one class or the other. What is lacking is a concrete and embracing social purpose. Given such a purpose, it is possible to establish criteria of liberty which have meaning. It is possible to decide the inevitable conflicts among liberties on the basis of relevance to the purpose. With such a purpose, democracy can function, provided the purpose is consistent with a desirable variety of equality. And with agreement upon it, there will be a chance to develop reason and use candid persuasion in the task of government. Liberty, democracy, equality and reason are not ends in themselves; if they are to work in harness, they must be means to some other end, and must be defined in terms of that end. Where the American tradition has stopped short is in defining a national purpose suitable to our new technical environment. I believe such a purpose is im-

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plied in our history, but it has never been authoritatively expressed and generally acknowledged. If more of our efforts had in the past been devoted to defining it, instead of merely assuming that it was a glorious and self-realizing destiny, we might have done something at least to realize it outside the realm of campaign speeches.

#### 4. AMERICAN LIBERTY, 1776-1860

THERE is an assumption underlying many school histories and political speeches that the American system was a new invention, springing full-blown from the minds of great men. One would suppose, for all that these writers and talkers have to say, that philosophers and statesmen first elaborated basic principles out of their heads, and then that on these ideas our nation was erected, to stand through the centuries like a piece of architecture conforming to the blueprints and specification of those who first conceived it. First the idea, then the completed society.

Historians have shown in great detail how erroneous this conception is. It is true that there was a great activity of political thought, and a wholesale revision of ideas about nature, man and social institutions before and during the period when the American republic was founded. But these ideas were not sudden inventions. Their origins may be traced to classical antiquity; they flowered through several centuries from the middle ages onward; their exponents differed among one another. Volumes are required to trace with any accuracy the growth and variety of the principles usually subsumed under the head of Liberalism. What is even more important for the purpose of our present study, the historians have shown beyond a doubt that these ideas did not

develop in an intellectual vacuum, but were greatly influenced by circumstances of people in general, and particularly of men of affairs, during the period when they originated. They were not merely mental formulations like so many mathematical abstractions; they were also the expression of needs and desires and conflicts arising from changes that were taking place in social life.

Historians, of course, are not agreed among themselves as to the precise role played by these ideas in the development of society. Some emphasize the economic motives behind the ideas; others argue that the economic interpretation of history is too narrow and that other leading interests of man played a larger part, or even that the ideas have a sort of life of their own, aside from the vicissitudes of daily experience. It would not be possible, even if it were necessary for the present purpose, to enter this argument in a book which after all is not intended to be a history, and is not written by a historical specialist. But the discussion of this issue is somewhat beside our present point—which is that, however ideas may originate, they are actually given different meanings in practice according to the interests and purposes of those who employ the word-symbols that embody them. This is a thesis which few historians would deny, and to substantiate it one needs, not necessarily to know the exhaustive records of the past, but merely to observe the behavior of people at present. It is well before examining present behavior, however, to check our view of the past, even though by a necessarily sketchy and much abbreviated account of what liberty has meant in **America.**

We must first make the obvious admission that the origins of our ideas do not lie exclusively between the Atlantic and Pacific Oceans, the Canadian and Mexican boundaries. In many crises of our history, and never more so than at present, it has been thought a sufficient condemnation of an idea or an institution to point out that it has a foreign origin. If everything that is foreign in beginning or that has a foreign parallel were to be excluded from our culture, it would be difficult to know what would be left. We could not object to the theories of the German Karl Marx on the basis of a belief in the theories of the Englishman Adam Smith. We could not reject the un-American conceptions of a Soviet republic or a corporative state in support of a Constitution that found its intellectual sanctions in the seventeenth-century thought of the un-American John Locke. We could not take pride in the words of the Declaration of Independence, knowing that its authors were familiar with the doctrine of natural rights developed by the French Rousseau. Anyone who insists, like William Randolph Hearst, upon being a pure and unsullied one-hundred percent American, ought to forsake the society of the descendants of the English, French, Dutch, German and Scandinavian subjects who settled this country and established its government, and take up his abode in an Indian reservation. Even so, he might be contaminated, because there is a possibility that the Indians, with their culture, once migrated from Asia. But certainly anyone who wants to discuss liberty intelligently will have to admit straightway that it arose in a European setting and was transplanted to this country. It was not invented by Edison or manufactured by Ford.

Now, the philosophers and political pamphleteers who gave form to the liberal ideas did not do so in a vacuum of metaphysical abstraction. The society of their day was beset by change, confusion, conflict and uncertainty as is ours at present. The feudal system, with its static arrangement of classes and its relatively fixed economic relationships, was breaking up. The rebirth of science, the discovery and settlement of the new world, the extension of commerce and the growth of manufacture had laid the groundwork for new institutions. But the old framework of government and of ideas did not allow full scope for these new growths or for the persons who embodied them. The doctrines on which the old order was built supported the authority of the Church, the nobles, the king and the guild craftsmen, while they left little place for the peasant or freehold proprietor of land, the employer of labor, the accumulator of capital, the banker or the merchant capitalist.

The doctrines of freedom were used as an expression of rebellion against the old order. The liberties that were desired were desired by specific classes of people and for specific purposes. The philosophers and scientists wanted liberty to think and experiment in ways that were frowned upon by the orthodox theologians. But in escaping the authority of the Church they did not escape authority altogether; instead they set up new criteria of their own, ranging from the inductive experimentalism of Francis Bacon to the fantastic primitive "nature" of Rousseau. The Protestant religious leaders emphasized freedom of conscience vis-à-vis Rome, but tolerated precious little of it in regard to their own interpretations of the meaning of Holy Writ.

The tillers of the soil wanted freedom to own land and sell their produce; the manufacturers wanted to escape the regulations of guilds, restrictive laws and royal monopolies; the merchants wanted permission to trade where they pleased; the money-lenders wanted to be allowed to amass gains out of interest, instead of being looked down upon as usurers. The members of the emergent business community needed a stable government controlled by themselves, so that they need not be subjected to the extravagances, whims and dynastic quarrels of the old ruling classes. But in setting up new regimes they took care that it was only their liberties to do what they wanted that were protected. The masses were long excluded from the franchise, and the property rights of the church or noble landlords were not respected. What they actually did was not to replace autocracy with freedom, but to replace freedom for the feudal system with freedom for growing capitalism.

The language in which this revolution was justified by its vocal participants has often deceived us on this score. The mind appears to demand some sort of ultimate sanction for behavior, and it was necessary to generalize the new demands in order to clothe them with sufficient authority to upset the traditional mode of thought. Therefore these specific liberties were subsumed under a generic liberty that was supposed to enjoy the approval of God and nature, though the approval that it really enjoyed was that of newly risen classes of persons who, by the use of the new terminology were furnished with the psychic weapon they needed to establish their supremacy. The equality and democracy that they believed

in was self-government by the propertied classes, not by the artisans, indentured servants or slaves, and the reason to which they appealed was their reason, using as its major premises the assumptions that would lead to the conclusions that served them.

This must be understood with no implication of ethical judgment against what they did. No conscious hypocrisy was involved. No one can doubt that they believed firmly in the righteousness of their cause. And if righteousness be interpreted as historical necessity, they were right indeed, because at that time feudalism could no longer serve civilization, while the world was not yet ready for a more complete democracy. When they claimed the approval of God for their beliefs, they were doing the same thing that persons do today who express a confidence in a historic mission.

The point that the historic doctrines of liberty were employed as expressions of desire for specific liberties is even more neatly illustrated by the course of events in the American colonies. When this country was being settled, the struggle against feudalism in Europe was well under way. Feudalism never got firmly established here at all; most of the great settlements were made by chartered companies on the early capitalist model, and abundance of free land, combined with demand for labor, was such that the old stratifications of society could be approximated here only with difficulty, and could not be long maintained. The great landlords here included some members of the nobility who received favors from the sovereign, but the more important were companies owned by a varied lot of shareholders, com-



panies which before long had to sell their land to resident owners in order to reap any profits from trade. In the North the system of agriculture itself made great estates unprofitable, the crops not being suitable for large-scale cultivation, and so small freeholdings predominated. The royal governors came to be, in large measure, representatives of the very classes in England that, before the end of the seventeenth century, had won their supremacy as against the absolute monarch, the church and the nobility. What the colonists were doing, therefore, was to struggle for liberation from the English apostles of liberty themselves.

In the South the early conflicts arose chiefly over payments of quit rents on land and other forms of debt. Unruly legislatures tried to extend succor to debtors in various ways, including inflationary issues of paper money. In the North, the more serious grievances were those of the traders and manufacturers against restrictive legislation or orders in council adopted in the interest of British traders and manufacturers. Parliament, the representative of English capitalist democracy, tried to retain for its constituents monopolistic rights to the profits from American production and exchange; it even attempted to suppress the growth of manufacture on this side of the water. In both North and South, there were continual quarrels with the government of England concerning taxation and expenditure.

Our struggle for liberty was therefore a struggle to master and develop our own resources and to keep the yield, so far as possible, at home. It was the effort of particular classes of persons for particular objectives, and

it was a conflict against similar classes of persons abroad who had but recently won similar liberties for themselves. No abstract conviction of the justice of universal liberty moved the colonists to revolt, before they had been forbidden to do specific things that they considered matters of life and death. And when the controversy reached a white heat, and the great American political documents were struck off in the passions of the moment, it was natural, though nevertheless slightly ironical, that their ideas were borrowed largely from John Locke and other prophets of the very ruling powers in England against whom we were fighting. Could any better illustration be required to show that liberty acquires meaning in practice only when a group of like-minded persons, governed by similar conditions, is denied the privilege of engaging in particular activities which are important to them? The American liberty of 1776 was a liberty of purpose, if ever there was one.

In the winning of this liberty the colonists were substantially united, but when it was won, divisions of purpose quickly appeared among them. Most of them could combine against creditors and competitors across the water, but there were left creditors here who wanted a strong central government to protect their property and provide a stable medium of exchange. And so we had the agitation for the Federal Constitution, the opposing forces in the Constitutional Convention, the reluctance to ratify the document on the part of certain states, and the subsequent addition of the first ten amendments, containing the greater part of our own charter of liberties or bill of rights.

Another illustration of our point is the fact that these statements of abstract liberty, demanded by the radicals and democrats, included in the Fifth article the due process clause which, together with the similar clause later adopted in the Fourteenth Amendment, in recent years has often been invoked by conservatives and anti-democrats as a means of enhancing their wealth. What would Thomas Jefferson have thought if he could have foreseen that a guarantee against deprivation of life, liberty or property without due process of law would eventually come to be so interpreted that it would be held to forbid governmental reductions of rates charged for common necessities of life by private monopolies? And if, in addition, he could have known that the clause reserving to the states all powers not expressly granted to the federal government would be so construed as to forbid the people, through their central government, from exercising the liberty to provide these same necessities for themselves in competition with the private monopolies? Practically, liberties conflict, and practically, it makes a great difference whose liberties are protected, and what liberties are exercised.

While the conflict over interests that arose with the framing and adoption of the Constitution was continued in the political controversies, first between the Federalists and the anti-Federalists, and then between the Democrats and the Whigs, the physical conditions of life in this country insured that for several decades at least these divergencies could be adjusted in terms of persuasion and democratic government. Liberty could be so interpreted that a substantial measure of equality was maintained.

Indeed, by the victory and predominance of Jacksonian democracy, the franchise was extended and plentiful opportunities were kept open for the common citizen.

The continual opening up of new land and resources relieved the pressure. Those who felt themselves underprivileged in older settlements could move on. So many were doing so that the interests of the frontiersman and the farmer, combined with those of the smaller number of laborers and artisans in the cities, could for awhile dominate the political life of the country. At the same time, the growing financial and industrial interests could find scope in a rapidly growing market. Though they kept on trying to enforce their ideas of national policy concerning sound money, central banking and the protective tariff, their failure to make political headway for long at a time did not prevent them from gaining in wealth and power. All interests could combine the execution of their purposes within a single frame of democracy and upon a reasonably consistent interpretation of liberty. There was so much room that there was not too much jostling; there was sufficient to share so that the disparities of income were less important than now; and our industrial life was characterized by such small units and was so loosely organized, so nearly anarchistic, in fact, that what disparities did exist were not fatal. Freedom for the poor could be exercised, like freedom for the rich, largely in terms of absence of restraint.

But all this time another sharp difference was growing. Our universe of liberty, equality and democracy had never, of course, included the Negro population. One section of the citizens believed with intense conviction

that it must not; another came to believe that it must. This difference was capable of being stated in terms of moral principle, and was often so stated at the time. It was referred back on both sides to the charters of our faith. The fact that this was done, and, being done, aroused those emotions that are all the more hot because they are not admitted to concern material interests, helped to give the conflict explosive force. On the one side, the sanction of traditional authority was obtained by reference to that part of the Bill of Rights which reserves power to the states, on the other, by reference to that part which guarantees liberty of the person.

But here, as always, the conflict of liberties was more than a conflict of ideas, it was at bottom a conflict of purposes, a conflict of interests between large groups differently situated. If all that had been at stake had been the ethical issue as to whether slavery should continue and be extended, it might never have provoked a major political crisis. All the intervention that would have come from the North as a result of moral sentiment alone would scarcely have been sufficient to free the slaves; while the ethical phase of the matter, uncomplicated by any other, might have led the South to solve the problem for itself over a longer period of time. The Missouri Compromise and other efforts to adjust the difference might have preserved the field indefinitely for democratic persuasion. What kept precipitating the issue, and what finally brought the conflict, was the opposition of interests between an old ruling class and another that was rapidly growing and felt its growth hampered by the old. One sought to hold the powers, liberties and

wealth that it possessed, the other sought to extend its own powers, liberties and wealth.

Let us state the matter in its crudest form. It is a form that historians can clothe with all sorts of exceptions, complexities and additions. But without the central thesis, the whole matter is meaningless. The leading economic and political power in the nation from the days of Andrew Jackson until shortly before the Civil War consisted of the plantation owners of the South. With the help of small farmers and city populations they controlled the federal government, except for a few brief intervals. But the industrial and financial interests of the North were growing. As they grew, they threatened, through the national government, to enforce policies that were ominous to the plantation owners. In the early days they endeavored to revive the National Bank, with its centralized control of finance. They wanted higher protective tariffs, which favored the growth of manufacture, but interfered with the foreign markets of cotton and tobacco growers and raised their costs. Above all, they wanted to open up the western lands to free enterprise and hold them shut against slave agriculture. But the planters needed these new lands for their own system as the old soils grew unprofitable. They were afraid of the shift of national power that the enlargement of free soil embodied. The forces behind the free soil movement might even aspire to abolish slavery where it existed and so ruin the plantation system. Gradually the northern farmers and industrial workers began to shift their allegiance to the manufacturing and financial interests. But the plantation owners remained

in undisputed control of the slave states. By standing fast on the doctrine of states' rights they could at least save what they had. They eventually fought, ostensibly for that doctrine, but really for the property and the economic system that it protected, when, through the victory of the Republican party, federal power fell into the hands of the Northern interests.

The kind of liberty required by the upsurging forces of industry and finance came to be exclusive of the kind of liberty required by the propertied interests of the slave states. The one felt an irresistible urge to develop and exploit the new domains to the West after its own fashion; the other needed to extend the plantation system in those domains in order to safeguard that system where it had long survived. It is significant indeed that the new Republican party, whose accession to power finally precipitated the hostilities, did not baldly propose abolition of slavery where it existed, but concerned itself rather with the future distribution of power by means of the regime to be imposed in new states and territories. And it is significant that the fighting slogans themselves did not directly mention slavery, but rather the right of secession on the one hand and the preservation of the union on the other. These were not mere evasions of the issue at stake. They were, in a larger sense, accurate expressions of the real issue. The contest was in reality a contest for control of government by forces having different systems of liberty, appropriate to the different economic systems which they respectively practiced.

Here we were, a new nation, the embodiment of a new

hope on earth, all fitted out with belief in liberty, and with a constitutional form of democracy by which we might decide what liberty meant. Here was our first sharp conflict over the kind of liberty to be practiced, a conflict embodied in opposing economic classes, which happened to be geographically separated as well. Was this conflict resolved by democratic procedure, by logic deduced from first principles, by reason and persuasion? We know that it was not.

How tragic were the consequences we still have cause to remember. We have learned that civil war is a terrible thing, to be avoided by every means at our disposal. We ought to have learned that no effort to work out our problems by democratic means, by reason and persuasion, can be spared. But must we not learn also that appeal to abstract liberties can be used equally by both sides of a conflict, that it does not supply a basis for judgment by which the conflict may be resolved? Must we not learn that opposing systems of liberty probably cannot exist for an indefinitely long period in one political order?

If there has arisen, or should arise, a new conflict of liberties, embodied in great economic classes, does not our national experience teach us that attempts to compromise it without facing the issue may in the end lead to that very breach which we seek to avoid, may even sharpen the irreconcilable opposition? Does it not teach us that the indispensable conditions for dealing with it in accordance with reason, persuasion and democratic process are, first, admitting and understanding it; second, deciding which system has the right of way; third, arranging a transition with as little loss and injustice as possible,



and fourth, peaceable acceptance of the decision by the losing class?

It is probable that neither the American nor any other people has yet reached a state of intelligence in which so difficult a discipline may be applied, but I see no escape from the conclusion that when a basic and persistent conflict of this sort exists, faithful exercise of such a discipline is the only means of avoiding appeal to violence in search of a settlement. These are hard words, but we live in critical times, and can afford nothing less than courageous acceptance of reality.

## 5. AMERICAN LIBERTY, 1860-1932

SCARCELY was our civil warfare ended when another division of interest began to be ominous. The forces of the winning North themselves represented a temporary alliance between groups whose ultimate aims differed. Business and finance could never have dominated without the help of the common men in farm and factory, who, though not always realizing it, cherished a far more radical conception of equality and democracy. Many of them, of course, entertained the hope of sharing in the winnings of profit-seeking enterprise, but many of them wanted nothing more than a secure living and an independent status in a realm that they themselves governed. It is interesting that the Republican party when it was formed pictured itself as the true inheritor of the democratic traditions of Jefferson and Jackson, and that its platform embodied a compromise, by which its more radical elements granted the industrialists a protective tariff in return for a liberal land policy.

Abraham Lincoln, its first successful leader, represented the more democratic wing. During the war and immediately afterward, the old tradition of democracy, the protest against industrial oligarchy, arose in the form of a young but vigorous labor movement. It was at this time that Karl Marx was publishing much of his writing, and we may be sure that his theories were not unknown

in this country. He was foreign correspondent of Horace Greeley's *New York Tribune*. He was a contributor to the *New American Cyclopedia*, edited by George Ripley and Charles A. Dana. Whether or not Lincoln ever read Marx, he had a knowledge of his own country and a prophetic sense concerning it. There is a passage in his message to Congress in 1861 that has seldom been referred to by the Republican orators of succeeding generations, but which now appears prophetic indeed. It is worth quoting:

Monarchy itself is sometimes hinted at as a possible refuge from the power of the people. In my present position I could scarcely be justified were I to omit to raise a warning voice against this approach of returning despotism. It is not needed nor fitting here that a general argument should be made in favor of the popular institutions; but there is one point, with its connections, not so hackneyed as most others, to which I ask a brief attention. It is the effort to place capital on an equal footing with, if not above labour, in the structure of government. It is assumed that labour is available only in connection with capital; that nobody labours unless somebody else owning capital, somehow by the use of it, induces him to labour. Labour is prior to and independent of capital. Capital is only the fruit of labour, and could not have existed if labour had not first existed. Labour is the superior of capital and deserves much the higher consideration.

It was remarkable that Lincoln should have said this, even before the first great conflict of interest was resolved.

Strikes and political agitation by labor were not unknown even in Revolutionary times, and have punctuated our history ever since. But it was not until the Civil

War that the era of large corporations and real concentration of financial power began to gain supremacy. Since then the process has continued. The money power of the country has endeavored, and endeavored successfully, to prolong its reign. Lincoln's own successors in the dominant Republican regime came to represent this power. As the years have passed we have approached the situation that he feared. Though monarchy is no longer hinted at, there is now felt in increasing degree a desire for refuge from the power of the people and there are more than hints of another kind of approach to returning despotism that may protect private wealth.

But the decisive moment in this struggle was not so near as Lincoln seemed to think; the conflict was broken up into a series of minor crises like waves beating on the shore in an advancing tide. The post-war prosperity brought the era of railroad expansion and the formation of trunk lines, and this was only the first of the great domains to be exploited by corporate capital. Labor organization was not solidified, and the masses in the East found continual escape from their problems by migration into new territories and growing industries. More energetic members of the working class had abundant opportunity to achieve advancement through enterprise of their own. In the crisis of the seventies, to be sure, mobs of unemployed, many of whom had been engaged in railroad building, expressed their desperation by tearing up tracks, burning railroad stations, and looting stores and food depots. But by and large, the continual exploitation of new territory and new resources in an expanding capitalist system provided elasticity enough so

that the conflict was not explosive, except in isolated and non-typical incidents. Though organized labor activity was always recurring, it could not for long achieve a national unity or power, particularly as a force with any revolutionary implications. In the Knights of Labor, for instance, it was weakened by vague radical slogans inappropriate to the stage of development that the country had achieved, and the merging of proletarian elements with the middle class. The eventual establishment of an enduring national labor movement in the American Federation of Labor was possible only on the basis of a strictly limited membership and a far more prosaic system of organization and objectives. Conservative craft unions, autonomous and loosely affiliated, exercised a bargaining technique to achieve the ten-hour and, later, the eight-hour day or higher scales of wages. The majority of workers remained unorganized and were assimilated, in one way or another, into the prevailing system of middle-class liberty.

This system, embodying the main purpose of the dominant class of the time, could thrive because of the material conditions that prevailed. Its leading idea was of course the maintenance of freedom for private enterprise. Its theoretical expression was in the economic doctrines of laissez-faire, which in Adam Smith, Ricardo and the other classical economists had arisen almost as an integral part of the liberal political philosophy. The doctrine assumed that the search for profit, the endeavor to accumulate wealth, would drive men to develop resources and produce abundance in the form in which consumers most wanted it. It assumed that, while some few restrictions might

have to be imposed by government, the major regulations required would come automatically, without specific intention, by means of competition among small, personally managed units of business. Competition would provide for necessary flexibility of prices in response to changing conditions of demand and supply; it would see that the most efficient competitors survived.

It is of crucial importance to note that this system of liberty for private enterprise, this economic freedom defined as absence of restraint, assumed as its very foundation a substantial equality of power among competitors. When the classical economists wrote, most business units were small, and the business enterpriser could scarcely be conceived as anything else than one who was simultaneously owner and manager. Adam Smith disapproved of corporations unless for rare and exceptional enterprises where a combination of different capitals was necessary for the public service, and the mode of procedure was a fairly routine matter, as in banks or canals. So did John Stuart Mill, a much later economist in the liberal tradition. Control of industry through intercorporate affiliations was undreamt of, as was the whole complex of financial institutions that surrounds the stock market.

Of course *laissez-faire* had never existed in a pure form; this system of liberty, like all others, was limited almost from the beginning. Following the line of Alexander Hamilton, the manufacturers of this country began early to use government to shut out foreign competitors, and have never ceased their efforts to do so, being more successful after the Civil War than before. But in another and more important respect the system was self-destroy-

ing. Like any order of negative liberty, it soon began to develop inequality among those who participated in it. A rapid growth of corporations, as we have seen, was taking place even in Lincoln's time. The process of concentration went on all during the latter half of the nineteenth century, and gained renewed momentum in the first quarter of the twentieth. Small business men, farmers and laborers repeatedly attempted, through democratic processes, to check or tame this development. By means of the Sherman law and subsequent anti-trust legislation they tried to break up combinations and prevent other practices of monopoly. By regulation of railroads and other public utilities they tried to curb its behavior in relation to consumers, where a substantial amount of monopoly was conceded to be necessary in the public interest. By social legislation and trade-union action labor attempted to set limits to the power of private capital in employment policies.

But the process of concentration of wealth continued, in spite of all such efforts. It was for a long time moderated in its effects by the opportunities of expansion, by the existence of new lands for settlement, by the rapid growth of population giving scope to new enterprise. Nevertheless in the long run big business and finance has had its way. The imperatives of technological growth, requiring large investment of fixed capital, combined with the natural impulse toward accumulation under capitalism, were irresistible. As recent studies have shown, a substantial part of the business wealth and of the production and distribution of the country are the prerogatives of a few hundred corporations, governed by at most a

few thousand men. The regulated units have, by and large, succeeded either in controlling or in defying the regulators. Labor has been only moderately successful in obtaining the very limited checks upon industrial power which it has sought. On account of concentration of the population in industrial regions, the numbers and power of the agricultural classes have declined, and the farmers have themselves fallen more and more under the sway of landlords and large creditors. Within the cities, the overwhelming majority now consists of employees; independent proprietors of small business form a minor percentage of the population, and they themselves are largely at the mercy of the large corporation. There is no more any real escape open to most of those who are not members of the governing class of industry and finance. If the expropriated look to the land, they find that, under existing conditions, there are too many farmers, while all other valuable natural resources have been taken up. If they look to business enterprise, they must enter the precarious and overcrowded fields that are still mainly competitive, and that are at a disadvantage as against the industries in which only large units are possible.

While still preserving the forms of political democracy, we are, in effect, living under an economic oligarchy. The system of liberty embodied in freedom for private enterprise, which once included a majority of the population, has in practice been narrowed to exclude all but a small part of it. This small part is intent on preserving its liberties, and in doing so uses the historical concepts sanctioned by our history without any examination of their meaning under the new circumstances. It is significant,



too, that we hear from them almost exclusively about liberty, with scarcely a mention of democracy and equality, and indeed with a vehement denial of the right of revolution. They naturally pick from our tradition what will best serve their purposes. Is there not something symbolic in the fact that the founders of the American Liberty League consist almost exclusively of multimillionaires, while the League for Industrial Democracy is concerned with the rights of labor? Two opposing systems of concepts about liberty, expressing the needs and purposes of two opposing aggregations of the population, once more confront each other. One is trying to keep, the other trying to gain dominance over our political and other social instruments, in order to see that its own proper system may prevail. The sifting of ideas is still confused, there is no continuous line of cleavage, and the opponents have not been arrayed in sharp opposition, but the tendency is apparent to anybody who is not near-sighted.

An illuminating little incident in our recent history may be cited to illustrate the clash of the two systems. When the newspapers of the country were brought under an N.R.A. code, they objected to the clause in the law which would permit the President to alter the code without their consent, and attempted to negate it by provision that the code could be changed only by their vote. Any other course, they agreed, would contravene the Constitutional guarantee of freedom of the press. It was pointed out on the other side that the code concerned largely employment conditions and had no bearing upon what the press might print. In the realm of wages, hours or collective

bargaining, the rights of labor and the public might be superior to the right of this one group of employers. The President in a published letter declared that the Constitutional issue was irrelevant, since no one by signing a code could deprive himself of any constitutional right that he otherwise might enjoy. Nevertheless the issue later arose in concrete form when the National Labor Board in the Jennings case ordered a newspaper to reinstate a man who had been compelled to resign for union activity. The newspapers contended that the Board was without authority under the provisions of their code, and plainly hinted that if the order were enforced they would regard the code as having been changed without their consent, would rescind it altogether, and would challenge the government on Constitutional grounds. This threat was successful, and the order of the Board was voided by direction of the President. Later, after the N.R.A. was abolished by the Supreme Court and the Wagner Act was passed to govern labor relations, the Associated Press did challenge in the federal courts the right of the government to order reinstatement of a man discharged for union activity. Thus the abstract freedom of the press was used by a group of powerful employers to bolster their assumed right to oppose unionization of their editorial employees. Liberty of the press meant, to them, liberty to do what they liked in their employment policies. On the other hand, liberty meant to the employees liberty to engage in real collective bargaining. Two systems of liberty were in opposition, and one had to give way. Liberty had to be interpreted and administered in terms of the purposes of one group of persons or the other.

The purpose that is served by liberty for private wealth is clear enough. It is the right to keep and enlarge property in the means of production, and to exercise traditional power over the direction of production and distribution, with no restrictions except those to which the owners may in their own interest consent. This purpose the ruling economic class seek to maintain as the national purpose; they seek to have it used as the criterion of which liberties may be exercised, and what democracy may do. Though they stoutly maintain that their system safeguards the best interest of all, they are in this not unlike ruling classes of the past, and their contention is to be judged not by its pretensions but by its results. It is obvious that this system opposes both equality and democracy—the existing political democracy in so far as democracy attempts to approach equality, and the non-existing industrial democracy.

What is the purpose of those who do not share in the existing oligarchy? This purpose, like any emergent one, is not so clearly defined; at least the definitions that have been offered have not achieved such broad conscious recognition. Yet there is marked advance in this respect. People who do not have a chance to work want that chance, those who have jobs want some assurance that the jobs will continue. People want security in sickness, old age and other misfortune. Workers in the factory, the field, the office, the laboratory or the university want a significant part in serving a common end. In more general terms, the purpose is to achieve more economic security and equality, and for this end to use democratic processes of some sort. These purposes become all the

more urgent in view of the scourge of depression, accompanied by a recognition that the production of useful goods might be very much greater than it ever has been, even in prosperity. In sum, there is more understanding and acceptance than ever before of the profound implications involved in the words of Lincoln: "Labor is the superior of capital and deserves much the higher consideration."

## 6. LIBERTY LEAGUE LIBERTY

THE American Liberty League is the most impressive and the best financed of the voluntary organizations recently formed to defend something that is variously called "the American system," "the Constitution," or more simply, "liberty." But it is only one. It has had numerous predecessors. In the serried ranks of nation-savers march such varied troops as the Crusaders, the Sentinels of the Republic, the National Conference of Investors, the American Taxpayers' League, the Farmers' Independence Council, the Southern Committee to Uphold the Constitution, the Election Managers' Association, the Order of American Patriots, as well as numerous patriotic bodies, the names of which have many times appeared in the newspapers. Though there is not complete unanimity among these organizations, and each will deny responsibility for the others, nevertheless their opinions and tactics fit together well enough so that one is justified in classifying what they all want under the general head of Liberty League liberty.

Such a coalition of citizens is worth attention. Just what is in danger, that they think needs their protection? What, specifically, do they want? How do they go about getting it? The six volumes of testimony before a Special Committee of the Senate to Investigate Lobbying Activities, under the chairmanship of Senator Hugo Black

of Alabama, supplies more than a hint of the answer. This committee questioned under oath representatives of most of these organizations, and others as well. Moreover, this committee represents one of the activities of government to which they most object. The Republican platform of 1936 charged that "the rights and liberties of American citizens have been violated," that the administration "has intimidated witnesses" and "has promoted investigations to harass and intimidate American citizens." "Appeals to passion and class prejudice have replaced reason and tolerance."

In its effort to discover evidence, the Committee subpoenaed many letters and telegrams. Certain persons challenged its authority to do so, and declined to submit the required documents. Chief among these was William Randolph Hearst, who caused to be served on the chairman of the Committee, on March 16, 1936, a subpoena and bill of complaint issued by a United States court, the purpose of which was to prevent it from giving publicity to a telegram of instructions sent by him to an editor of one of his newspapers. Newspaper owners generally supported the action as a defense of "freedom of the press." It is therefore well to find out what the Committee was doing, as well as what those whom it investigated were doing.

The testimony does not present a simple and logical story. Witnesses did not stick to the point; they professed ignorance, they forgot. Documents and accounts had been destroyed. False trails were followed. Trivialities consumed hours. Mysteries were left unsolved. Nevertheless, the essential facts emerged.

The investigation began with the struggle over the Wheeler-Rayburn bill. That bill, it will be remembered, was an effort to eliminate the abuses of the public utility holding companies, and to bring them under federal regulation. The old skill of getting rich by accumulating business properties, combining and refinancing them, hitherto practised in other industries, notably railroads, had been developed to a high degree in electric utilities during the post-war period. The opportunities were particularly great here, because this was a large and expanding industry, still in the period of decreasing costs. Various groups of promoters were engaged in buying up local operating companies, often at uneconomically high prices, with money obtained from the public by security issues. These holding companies would in turn be bought by super-holding companies, they by super-super-holding companies, and so on. While most of the cash came from outside investors, the promoters themselves retained control. So long as business was good, they reaped an immense return on the amount of money they put in. The structure became unbelievably complex and top-heavy. Depression brought disaster to it, with fantastic losses to investors, in spite of the fact that the consumers' demand for utility service, and the prices at which it was sold, were affected but little. Meanwhile the centralized financial control had injured the consumers by various methods of rendering local rate-regulation virtually ineffectual. And this control had played, as previous investigations had showed, a large role in publicity and in influence of education, to the end of fighting off governmental intervention or competition with private ownership.

The Wheeler-Rayburn bill challenged this aggregation of concentrated wealth at its most vulnerable point. It proposed, not merely to regulate interstate utility activities, but actually to forbid the existence of interstate utility holding companies above the first degree, except those that performed a real function in improving the efficiency of electric service. Existing ones were to be given time to wind up their affairs and distribute their assets. They could remain as investment trusts, but not as opportunities for manipulation. Future utility issues were to be regulated by the S.E.C. This provision of the bill was intended to destroy the most promising opportunity left in America for speculative promoters to get rich quickly. It was aptly, from their point of view, called by them the "death sentence." They mobilized every available resource to defeat it. They prevented its passage for many months, and might have killed it altogether if it had not been for the revelations of the Black Committee. The investigation, therefore, was in the first place a weapon of those who favored the bill. It is thus already in part clear by whom the activities of the Committee were regarded as persecution of citizens and invasion of liberty, and what kind of liberty it hampered.

What were these revelations? They concerned chiefly the manner in which the utility holding companies fought the bill. There was formed, under the presidency of Mr. Philip H. Gadsden of the United Gas Improvement Co., a Committee of Public Utility Executives, including the presidents of the eighteen largest utility holding companies. To its expenses they contributed at the beginning



about \$151,000, on the basis of half a cent for each electric meter controlled by each group. Further assessments were made. It was formed in the offices of the Edison Electric Institute, the trade association of the industry. One of the first things it did was to engage the services of two of the largest law firms in the country, Sullivan and Cromwell, and Simpson, Thacher and Bartlett. A fee of \$75,000 was paid to each firm, not by the Committee, but by the Edison Electric Institute. The Committee also engaged one of the leading publicity concerns, Ivy Lee and T. J. Ross, paying it \$5,000 a month and expenses. To round out its staff, it engaged three prominent economists and statisticians, F. R. Macauley, David Friday and Professor S. T. Bullock of Harvard. It had expenses for offices, printing and secretarial employees. Thus it was prepared with the ablest talent that could be hired for legal advice, strategy, publicity service and economic analysis.

The Executive Committee was perfectly frank, in the investigation, about its activities. The interest under attack was merely doing its best to defend itself, and since it could command ample resources, that best was very good indeed. The witnesses stoutly maintained that they did not do any questionable lobbying. They drew up arguments and submitted them to the Senate Committee that had the bill in charge. They sent informative material to Senators and Representatives. They prepared and distributed publicity. They inserted in publications advertisements stating their point of view. When asked if he thought it proper to spend so much money to influence legislation, Mr. Gadsden replied, "I think there

are two classes of lobbies. One is a group that comes down here seeking to get some personal selfish advantage out of the government in preference to the other taxpayers. I think the other is a group like myself, that comes down here to do what they can to resist the effort of their government to destroy their property." This property was continually referred to as a "twelve billion dollar industry." Surely to protect one's property is the right of an American!

But what the Executives' Committee did directly was not half the story—or even more than a tenth of it. It merely acted as the center for the constituent groups, who were encouraged to go ahead on their own account. "You see," said Mr. Gadsden, "our committee is composed of members of eighteen groups, and each group would look after its own territory. As the chairman, of course, I was not in contact with them, but they would take whatever steps they thought were proper and advisable to arouse public interest in the state or district on this bill." The Executives' Committee gave suggestions to the constituent bodies. It prepared letters, publicity, advertising, for them. It let them do most of the lobbying and arousing of public sentiment. It was later discovered that the total amount spent to defeat this one bill was in excess of \$3,500,000—more than an entire Presidential campaign fund usually amounts to.

That the electric utilities were already aware of the importance of political activity in local regions is indicated by an editorial entitled "Light up with Politics," appearing in the *Electrical World* on October 14, 1933, which read in part:

It is very evident that the utility business is in politics . . . present political influences are destructive to private ownership and operation and favorable to public ownership and operation . . . this means that the utilities must take political action . . . it means a strong organization based upon political competency . . . it means definite political action in the political arena . . . every executive or manager in each community . . . must come to know intimately the present municipal officials and state and national legislators, also those who will attain these political positions in the future . . . each employee of the manufacturing, wholesaling, contracting and retailing branches of the electrical industry must be enrolled and put to work . . . they must be told how to be effective but non-partisan political workers . . . add to these elements publicity, advertising, fact-finding and other essentials of a good political organization and one gains a conception of the magnitude and complexity of the task confronting the utilities and the industry. . . . If the actions outlined are undertaken on each property for each local community the national situation will take care of itself; it is the district organizations that win elections. What needs to be done is to staff each local property with "political" executives and permit them to build their political fences. . . . Utilities should translate public service into political service also by taking local action adequate to meet present needs.

The decentralized activities were harder to trace. What the utility executives really tried to do was not so much to bring their own pressure directly to bear on Congress as representatives of their own interest, but to give Congress the impression that multitudes outside the inner group were opposed to the bill as a matter of public policy. Local companies sent prominent citizens to Washington to influence Congressmen whom they knew. Mr. Gadsden was asked, "You insisted, did you not, that they

bring everybody here they could bring here who was close to a Congressman or Senator, from their state?" He replied, "I certainly did." "And you did not bring those people here because they knew more about the bill than you did, did you?" "No," answered Mr. Gadsden, "they could not know more about it than I did." Later he amplified, "My conception is that a Congressman wants to know what the sentiment of his constituents is, and if a prominent business man can come here and say, 'John' or 'Jim, you had better watch out, the sentiment has changed in your district and your constituents are opposed to this bill,' he is very apt to listen to him." But of course nobody was brought by the utilities from districts where sentiment was strongly for the bill. Mr. Gadsden so advised the local agents. "That would be nugatory," he said.

As the testimony showed, the case was presented to these amateur local advocates for the holding companies in somewhat misleading terms. The bill really was aimed, not at the "twelve billion dollar industry," but at the small minority controlling the holding companies that exploited the industry. It was aimed, not at the investors, but at the promoters who had milked the investors in the process of using their money for the insiders' gain. Nevertheless it was universally represented by the Executives' Committee as an attack on one of the greatest industries of the country, as an assault on investors, as a threat to private enterprise in general.

"For whose benefit," asked Senator Schwellenbach of Mr. U. E. Beach, manager of the securities department of the Associated Gas and Electric System, "was this

campaign costing \$700,000 put on?" (The \$700,000 was spent by this one system.) "I would say for the security holders," replied Mr. Beach. "What good," continued Senator Schwellenbach, "does any stockholder get out of it, if the stock is not worth anything now?" Mr. Beach protested, "It is worth something." And the colloquy continued as follows:

*Q.* It has never earned any dividends.

*A.* You can sell it and get something for it.

*Q.* What can you get?

*A.* If I recall, the last price was about 50 cents.

*Q.* I paid \$49.00 for it.

*A.* You paid \$49.00, yourself?

*Q.* Yes.

That seemed to clinch the point. Most of the possible damage to investors had already been done, not by the bill, but by the men whom the bill sought to curb. And it was brought out that the \$700,000 would have paid a substantial dividend—perhaps 3 percent. Utility men were generally somewhat vague as to where the money came from to defeat the law. In some cases it was charged to operating expenses—and then, as the Senators carefully pointed out, it went into the consumers' bills. In some cases it was said to come from profits or surplus—but if so, as the Senators asked, what good did the real investors get out of it? The witnesses did not like these awkward questions. "The industry," they charged, was being "persecuted."

Many will remember the strange story uncovered through the shrewdness of the Hon. Davis J. Driscoll, Congressman from the Twentieth Pennsylvania district.

Like many other members, he was being snowed under by telegrams opposed to the bill. On the 27th and 28th of June, 1935, he received 816 messages. His attention was attracted to two facts: first, that he did not know most of the signers; second, that a large number were signed with names beginning with the first few letters of the alphabet. Out of the 816 signatures, 114 began with B. He wrote to a few whom he did know, and discovered that they had never sent the telegrams. Others had come from persons who could not be traced. Inquiry showed that an agent of the Associated Gas and Electric System, under orders to "develop" at least a thousand telegrams against the bill from this district, had dictated the messages in the telegraph office, signing them with names out of a directory. The copies of these messages mysteriously disappeared out of the Western Union files; they seem to have been burned by some unidentified person.

Of course Mr. Gadsden and the Executives' Committee would never have suggested such a foolish procedure as this. But the telegraph companies did inform their employees that a large number of messages on this bill would be "developed," and that the lucrative business was to be promoted. Messenger boys and utility employees were sent out all over the country to get people to authorize their signatures to telegrams. The people who signed the telegrams often did not pay for sending them. The quality of the information on which they sometimes acted was revealed by Messenger Danielson, who "developed" telegrams from his mother, a boy friend and a neighbor machinist—none of them utility stockholders. "I ex-

plained the Wheeler-Rayburn bill," said Mr. Danielson. "What did you tell them?" "By the Western Union I was told that if the bill went through, the utility companies would be in the hands of big men." "You went to your friend and machinist and others and told them you were against the big men having it?" "Yes." Danielson had never read the bill, had never seen it.

Letters sent to security holders were not so brashly contrary to the truth as this, but they were misleading. And many local public officials who opposed the bill did so because they were informed it would permit the federal government to invade the realm of states and local communities in rate regulation, although as a matter of fact it did not do so, merely establishing federal control of interstate sales of power, hitherto unregulated.

Advertisements were published in many papers. But, on the whole, the newspaper owners needed little encouragement to rally to the defense of the utility holding companies against the "death sentence." This effort to curb financial racketeering, essentially an attempt to police capitalism in the interest of common honesty and efficiency, was widely attacked as a socialistic measure, aimed at thrift and enterprise.

No such campaign was waged in behalf of the bill. The consumers were unorganized, and so were the small investors—except by the utility heads. It was charged, however, by those partisan to the holding companies, that the government itself was improperly "lobbying." This line of attack even went so far as to suggest that no member of the executive department should be allowed to appear before Congress in behalf of legislation! The Presi-

dent, in his advocacy of the bill, was accused of acting as a dictator. The voters who had elected him were thought to have no right to express their will through him, as opposed to the rights of those who raised \$3,500,000 to protect their "property."

One of the bodies actively interested in legislation of various kinds was called The National Security Owners' Association. Questioning of Mr. Robert S. Smith of that Association brought out reluctant testimony to the following effect. Members of Congress were invited to his house, where legislation was discussed. The Association received \$2,000 from the Washington Water Power Co. at Spokane, a subsidiary of the Electric Bond and Share Corporation (this contributor denied in answer to a questionnaire that it had made any contribution "to any association or groups of persons to be used, directly or indirectly, in connection with affecting or influencing Federal legislation"), \$8,000 from the Puget Sound Power and Light Co., a subsidiary of Stone and Webster, \$2,000 from the Pacific Power and Light Co., a subsidiary of the Electric Bond and Share Co., \$1,250 from the California-Oregon Power Co., a subsidiary of Standard Gas and Electric, and large amounts from other utility companies in California and elsewhere. The Congressmen who visited Mr. Smith's house were not told these facts. The Association was supposed to represent individual investors who paid a dollar a year. During 1934, it received \$27,000 from utility companies in the states of Oregon and Washington, and about \$6,000 from dollar-a-year members in those states. Its literature, sent out to attract



members and to stimulate pressure on Representatives and Senators, said nothing about the utility contributions. On the other hand, the pamphlets bore the names of respected individual citizens—orchardists and the like. After the Supreme Court decision invalidating the N.R.A., Mr. Smith sent a long telegram to Mr. Frank Post of the Washington Power Co., speculating at length concerning the effect of the decision, and saying, "All unbiased observers agree New Deal program in general and brain trusters in particular have been dealt body blow, which will have sobering and important legislative effects." Mr. Smith later became chairman of the National Conference of Investors.

The American Taxpayers' League was described by its manager, Mr. J. A. Arnold. At the time of the inquiry it had between 2,500 and 3,000 members, paying dues of \$10 a year. In addition, however, it received larger contributions—some of them \$1,000 or more—from utility and industrial concerns, or persons prominent in them, such as Columbia Gas and Electric, Andrew W. Mellon, Delaware & Hudson Co., A. B. Dick Co., William Wrigley, Jr., National Casket Co., Herbert L. Pratt, Koppers Co. (The list of contributors covers more than two pages of small type.) Mr. Arnold stated that his League was "on the radio for 77 weeks. And making the nation tax-conscious was what we started out to do."

Mr. Arnold was particularly concerned about making the nation conscious of the A.A.A. processing taxes. He had previously been head of the Southern Tariff Association, the purpose of which was to promote the protective tariff, especially in the South, where sentiment for it

always had been weakest. Mr. Arnold testified that he still believed in tariff protection. "Did you make people conscious of the indirect tax levied by a tariff?" asked Senator Minton. "I did not mention the tariff at the time," answered Mr. Arnold, after sparring.

The Association used both the National Broadcasting Co. and the Hearst Station, WINS, without paying anything for the privilege. Mr. Arnold was asked about his relations with Mr. Bainbridge Colby, Hearst attorney. He denied that Mr. Colby had helped him. His telegrams and records, he said, had been "thrown away." The Committee then read him this telegram, sent by him to Mr. Colby on March 9, 1935. "Will be in New York Monday. Think it important that we enroll at least 10,000 members within a very few days. The support you are giving it demands that sort of a base."—One begins to understand Mr. Hearst's sensitiveness about publicity given to telegrams, his vigorous defense against what he maintained was unconstitutional search and seizure.

The Tax League has a history of several years; it extends back into Republican administrations, during which it raised even more money than recently. Mr. Arnold then collected about a million dollars in five years. Mr. Kirby, of Texas, more recently connected with the Southern Committee to Uphold the Constitution, concerning which we shall learn something later, was for a time Vice President of the Tax League.

In general, the program of the League was to encourage sales taxes—it claimed responsibility for passage of sales taxes in Illinois and Mississippi—and to work for reduction, or even complete removal, of taxes on corporate

profits and large incomes and estates, for repeal of the gift tax, for repeal of publicity provisions on income taxes. It wanted the government to "stop spending and stop taxing." As Senator Minton put it to Mr. Arnold, "You were in favor of taking all these taxes off the big fellows and putting a sales tax on a loaf of bread." In this effort Mr. Arnold received valiant assistance not only from the radio, but from prominent newspaper owners, including both Mr. Hearst and Col. Robert McCormick. He cooperated with the American Legion, the Sentinels of the Republic and four or five other organizations in planning a Constitution Day Convention in Philadelphia. He had some undefined connection with Governor Talmadge of Georgia, who made a campaign to oppose the President within the Democratic party on a program of income-tax repeal.

Mr. Arnold's activities in 1929 and 1930 had previously been investigated by a committee under Senator Caraway, who reported in part:

Among the organizations into whose activities in endeavoring to influence Congressional or other governmental action your committee inquired . . . were the Southern Tariff Association, the American Taxpayers' League, the National Council of State Legislators, and kindred reputed organizations, all aliases, under which one J. A. Arnold operates ostensibly to influence Congressional legislation, but in fact for the purpose of making a living for himself and a small group associated with him. . . . His books are audited annually, whereupon all evidences of his financial transactions are destroyed, the auditor's report only being preserved. . . . His auditor, a certified accountant, was convicted and sentenced for issuing a fraudulent certificate reciting the solvency of a corporation whose books he had

examined. . . . How business men of ordinary sagacity can be induced to contribute to Mr. Arnold's purposes is entirely inexplicable to your committee. He has no training or experience either as an economist, a statistician, or a tax expert that would fit him to be of service in any capacity in connection with revenue legislation. . . .

Perhaps Senator Caraway was unjust in stigmatizing Mr. Arnold's calling as merely an unimportant means of personal gain. Mr. Arnold represented faithfully the views and interests of those who gave him money; he obtained an enormous amount of publicity. The tiny group of 3,000 taxpayers which constituted his membership has in recent months had an influence far outweighing its numerical importance in a democracy.

The Committee learned about the Crusaders from Mr. Fred G. Clark, their National Commander. The organization was originally formed to advocate repeal of the Eighteenth Amendment—a popular cause to which promising young men flocked. When that was done, it looked around for other possibilities of public service. It decided to fight "all forces destructive to sound, free government." In doing so it opposed the Tennessee Valley Authority, the "death sentence" of the Wheeler-Rayburn bill, the A.A.A., the banking reform bill. Its most telling argument, according to a letter from Mr. F. W. Blaisdell, of the organization, was, "We ought to be having a labor shortage right now. The only thing holding back prosperity is politics. Let's get together and get the politicians out of the road and go ahead." It opposed tax bills, upheld the Constitution and the Supreme Court. It sponsored many broadcasts, issued pamphlets, and sent

telegrams asking for comments on its arguments to Frank Kent, Mark Sullivan, Prof. E. W. Kemmerer, James P. Warburg, Alfred P. Sloan of General Motors, Ogden Mills, Cleveland E. Dodge, John W. Davis and other prominent men. It campaigned for "sound money." As a result of its activities, it received large contributions from a list that reads like a Who's Who of big business executives. Many of these contributors also contributed to the American Liberty League and other similar organizations. Among its backers were such men as Irénée and Lamot du Pont, Walter P. Chrysler, E. T. Weir, Alfred P. Sloan, E. F. Hutton.

The Crusaders carefully refrained from telling anyone how many members they had. According to a letter by Mr. Blaisdell, "If they do not know how many members you have they will always credit you with having a much larger membership than is really the fact." About sixty rich men paid for the expenses connected with its broadcasting (although it was given free radio time for five months by the Columbia Broadcasting System. Later it paid for time on the Mutual System and the Yankee Network). It did not inform its listeners who was putting up the money. Mr. Clark even went so far as to say in a public speech, "The Crusaders file no brief for any particular group in this country. . . . We make this statement because misinformed or malicious individuals have charged us with being the agents of big business." On another occasion he said over the radio, "We did not receive a dollar in contributions from any public utility company. We should immediately return it had we received one." Yet the records uncovered by the Senate

Committee showed that the Crusaders received substantial contributions from important officers of Cities Service Power and Light Co., Stone and Webster, Commonwealth Edison Co. and others. "Your object," said Senator Black, "was trying to influence people into shaping their thought with reference to legislation. . . . Do you not think the people are entitled to know, under those circumstances, that your expenses, the whole expenses of the program, were being paid by a small group of big business men in this country?" To which Mr. Clark's revealing reply was, "I have been trying to make business men realize that this was a worthy movement, and I have been very unsuccessful. I am very glad if this committee points out to them that it is to their interest to support this program, because it is going to help them a lot." Mr. Clark was trying to help big business men, his organization was being paid by them for doing so, but in public he represented himself as being "for no particular group."

Mr. Clark protested, and probably believed, that the concealment was of no importance, because what is good for big business is good for everybody. He was honestly trying to serve the country. It is curious, however, that with all their campaign for budget balancing and lower taxes, their drive against politics, the Crusaders did not more strongly oppose the Soldiers' bonus bill. The Committee found the explanation. A telegram from Mr. Blaisdell to Mr. George E. Dickie read, "Please wire me first thing in the morning whether bonus matter is being left out of broadcast so that we can get out our news releases. Our disapproval of bonus bill will lose us support of one nation-wide newspaper chain." Mr. Dickie wired back,

"Clark advises bonus matter will be eliminated from tonight's broadcast." Neither Mr. Clark nor Mr. Blaisdell could remember at first what newspaper chain objected. After Senator Black had refreshed Mr. Blaisdell's memory by naming the principal chains, Mr. Blaisdell tentatively admitted, "It was quite probably in connection with the Hearst newspapers."

A light upon the influence that the Crusaders exerted in the press was thrown by a letter from Mr. Sherman Clark, director in eleven states. He wrote: "In the Sinclair campaign [the campaign against Upton Sinclair in California] we contributed six or seven hundred dollars to the newspaper association, or whatever it is called, and that opened the way to free publicity in the newspapers. I understand it is an old 'gag,' though continually used, and apparently it works."

The Farmers' Independence Council was organized by a few men in a room in the Raleigh Hotel, Washington, D.C. It attacked the New Deal's agricultural program by radio and otherwise. Its Secretary and Treasurer, Dr. S. V. Wilcox, who is known for his anti-New Deal articles in *The Country Gentleman*, displayed a surprising ignorance concerning its affairs. He could not name any farmers who were members of the Council. He did not know that Mr. Lammot du Pont had contributed to it. (Other contributors were Mr. Alfred P. Sloan of General Motors, Mr. J. N. Pew of the Sun Oil Co., Mr. Aldrich of the Chase National Bank, Mr. F. G. Baldwin of Libby, McNeil and Libby, Mr. R. E. Fisher of Pacific Gas and Electric Co., Mr. Silas H. Strawn, Chicago corporation lawyer, Mr. Ogden Mills.) He did not know that Mr.

Samuel F. Morse, vice president and general manager of the Council, who apparently did most of its work, was also working for the American Liberty League, as consulting agricultural engineer. Authority had been given to Mr. Morse to keep the records, to receive and to issue checks. Dr. Wilcox could name only one farmer—Mr. Dorsett, a past master of the Grange in Pennsylvania, who had had anything to do with drafting the Council's declaration of principles. This declaration, in addition to praising industry, thrift, economy, freedom, Americanism, impartiality, and expressing its interest in the welfare of the farmer, insisted "that the government shall not by law or by subsidy control or attempt to control any farmer in the management of his own farm," and that "government shall not enter into competition with any legitimate organized or unorganized business activity." It also opposed "destructive radicalism, in whatever form it may appear."

The little group of men, under the general managership of Mr. Morse of the Liberty League, who drew up this declaration in the Raleigh Hotel, set out to organize farmers by states and to exert influence on existing agricultural organizations. It is still a mystery how many farmers they organized and how much influence they exerted. Apparently, however, the Council never really flourished. Perhaps they would have gone further if the Senate Committee had not asked Dr. Wilcox so many questions.

Governor Eugene Talmadge of Georgia, it may be remembered, started a boom of his own to win the Demo-



cratic Presidential nomination from Franklin D. Roosevelt. He talked a good deal about supporting the Constitution, reducing taxes, balancing the budget, abolishing the A.A.A. He organized in his own support a rank-and-file "convention" in Macon, Georgia. The Senate Committee learned something about this affair from Mr. John H. Kirby of Houston, Texas, President of the Kirby Lumber Co. and the Kirby Investment Co. and Chairman of the Board of the Kirby Petroleum Co. Mr. Kirby was Chairman of the Board of the Southern Committee to Uphold the Constitution, a member of the executive committee of the Sentinels of the Republic, and a member of the Order of American Patriots. Obviously a most patriotic gentleman. He was also formerly listed as an officer of the American Taxpayers' League, and is president of the Southern Tariff Association. Mr. Kirby's chief service to the Senate Committee was to admit that the Southern Committee to Uphold the Constitution obtained a contribution of \$5,000 from Mr. John J. Raskob of the American Liberty League, and to identify Mr. Vance Muse as the manager of, and expert on, the Southern Committee.

From Mr. Muse's reluctant lips the rest of the story was learned. (Mr. Muse had also been working for the American Taxpayers' League and was a member of the Order of American Patriots.) The Southern Committee to Uphold the Constitution paid the expenses of men who worked up attendance at Governor Talmadge's Macon convention. It paid \$1,000 to the *Statesman*, Governor Talmadge's organ. It paid the expenses of delegates to the convention. It paid for advertising, for flags, for the

band. But the Southern Committee upheld something besides the Constitution. Through Mr. Muse, it upheld race prejudice, for Mr. Talmadge's political purposes. Mr. Muse helped to prepare the copy for, and had printed, a circular which, according to him, "covered and littered over the South." It contained "a picture of Mrs. Roosevelt going to some nigger meeting, with two escorts, niggers, on each arm." This photograph was in fact taken at Howard University, a Negro institution. The circular, according to *The New York Times*, contained editorials "hinting that Negroes were frequent guests at the White House during Mr. Roosevelt's term as President." Mr. Muse took some of these circulars to Macon with him. They were reproduced by the *Georgia Woman's World*, a copy of which was on the seat of every delegate at Macon. They were sold broadcast by the Election Managers' Association, which had an office in the Kirby Building.

Who paid the expenses of the Macon convention, through the Southern Committee to Uphold the Constitution? Southerners who might be expected to be excited about white supremacy? No; principally Mr. John J. Raskob and Mr. Pierre S. du Pont, who together gave \$10,000. "And did you go to see Mr. Raskob and talk to him and Mr. du Pont personally before they would let you have this money?" asked Senator Black. "Yes, sir," was Mr. Muse's reply, "told them what I wanted it for." But other Northerners equally prominent contributed before and after the meeting. There was Mr. Alfred P. Sloan of General Motors, Mr. Prentiss of Hornblower and Weeks, Mr. H. C. Hopson, of Associated Gas and

Electric, Mr. E. W. Mudge, director of the Weirton Steel Co., Mr. Ogden Mills, and a long list of other business men and capitalists. A small minority of them actually did live in the South. But particularly well represented were millers in Minneapolis and bankers in Duluth. "Mr. Muse, this is a Southern Committee to Uphold the Constitution, is it not?" asked the Chairman. "But it raises its funds anywhere there is people that believe in maintaining our institutions," replied Mr. Muse. Evidently. One doubts, however, whether there would have been much response from the poor farmers of Georgia to Governor Talmadge's bold effort to split Mr. Roosevelt's support if they had known he was being financed by the backers of the Liberty League. After the Senate Committee's revelations, the revolt went up in smoke.

One of the older liberty-saving organizations, a forerunner of the American Liberty League, is the Sentinels of the Republic. The Committee learned about it from Mr. David F. Sibley, its assistant secretary, a Boston attorney. It was organized as a "charitable corporation" in 1922, by persons who had been active in opposition to woman suffrage, and chose as one of its first activities opposition to the Sheppard-Towner Maternity Act, which it succeeded in repealing. Since 1924 it has waged a continual campaign against ratification of the Child Labor Amendment to the Constitution. It has likewise opposed the movement for a federal department of education. More recently it fought against the Social Security Act, and took part in the agitation against publicity for income-tax returns.

Its "primary object" as stated in a letter by Mr. Alexander Lincoln, President, "is to maintain the fundamental principles of the Constitution, whereby a dual system of national and state governments was established." In another letter he wrote that the organizers of the Sentinels "had observed the growing tendency to centralization and bureaucracy in the federal government and viewed the situation with anxiety." The chief enemy of liberty at the beginning was regarded as the Children's Bureau and its allies. "Now we have a new element—the Brain Trust—and the Children's Bureau is in temporary obscurity."

The Sentinels were quite ready to adopt the more recent temper of their natural allies. A letter from Mr. W. Cleveland Runyon to Mr. Lincoln quoted from a speech by Under-Secretary of Agriculture Rexford G. Tugwell in Los Angeles the following sentence: "For the movement will go on in any case; it lies in the brains and the blood of a people bringing into substance the stuff of old racial dreams." Mr. Tugwell was speaking, of course, of Americans and American dreams, but apparently Mr. Runyon mistakenly assumed that Mr. Tugwell was a Jew, for he commented somewhat ungrammatically, "Certainly, after that, not to mention the Jewish Brigade Roosevelt took to Washington, there is no reason why the real issue should be smothered any longer." To which Mr. Lincoln replied, "I am doing what I can as an officer of the Sentinels. I think, as you say, that the Jewish threat is a real one. My hope is in the election next autumn, and I believe that our real opportunity lies in accomplishing the defeat of Roosevelt." And Mr. Runyon answered,

"The people are crying for leadership and not getting it. Our leaders are asleep. The Sentinels should lead on the outstanding issue. The old-line Americans of \$1200 a year want a Hitler." It is only fair to say that there is no record of a reply to this last suggestion, but it is also prudent to point out that the kind of person who wants an American Hitler was attracted by the Sentinels.

Another letter, from Mr. W. A. Wilson, of the faculty of Yale University, suggested upholding the Constitution by amending it on the reactionary side. "My own proposal," he said, "would be to strike out the general welfare clause in Article I, Section 8." The idea was to prevent the government from using its existing constitutional right to serve the general welfare, aside from the specific powers granted it in other sections of the instrument. This suggestion was carefully considered by the Sentinels; such an amendment, if their plans mature, may be introduced in a future session of Congress. But it would hardly seem necessary, since a majority of the Supreme Court has already narrowly restricted the meaning of the existing welfare clause.

The Sentinels decided in August, 1935, not to oppose the Tydings-McCormack Sedition bill (a bill that, as the American Civil Liberties Union points out, might be employed virtually to destroy freedom of speech and the press) but to oppose the Guffey coal bill and the Wheeler-Rayburn bill. At a later meeting it was reported that 1,900 papers "are taking our weekly editorials." Most of these journals are in small towns. The Sentinels, among their major activities, found time to oppose a bill to establish a juvenile court in the District of Columbia.

The principal financial supporter of the Sentinels has been Mr. Raymond Pitcairn, their national chairman, of the Pittsburgh Plate Glass Co. Others of equal prominence, however, have helped him nobly with the burden. There is Mr. E. T. Stotesbury of J. P. Morgan & Co., Mr. Alfred P. Sloan of General Motors, Mr. Arthur W. Sewall of General Asphalt and Baldwin Locomotive, Mr. Samuel D. Warriner of Lehigh Coal and Navigation, Mr. Atwater Kent of Atwater Kent, Mr. John E. Zimmerman of the United Gas & Improvement Co., Mr. Irénée du Pont, and many other business executives, bankers and utility men. There is a considerable overlapping between those who have contributed to the Sentinels and those who financed the Liberty League, after it was founded. Apparently the older organization suffered some loss of revenue to the newer one.

In a letter from Mr. W. M. Stayton, later secretary of the American Liberty League, to Mr. Lincoln of the Sentinels, we discover something about the origin of the Liberty League. The directors of the Association Against the Prohibition Amendment, meeting in New York on December 6, 1933, passed a resolution "suggesting that the individual members of the Executive Committee of the A.A.P.A. continue to meet from time to time and have in view the formation of a group, based on our old membership in the Association, which would in the event of danger to the Federal Constitution stand ready to defend the faith of the fathers." They did so meet, not long before June 27, 1934, the date of Mr. Stayton's letter, and were unanimously of the opinion that the time had come for action. Mr. Stayton believed that perhaps

the first duty of the new organization should be to oppose the Child Labor Amendment—though later he was convinced that this would be unwise. He was considering, he wrote on this and other occasions, what should be the relationship of the new organization to the Crusaders, the Sentinels, and the American Taxpayers' League. The older bodies, he wrote Mr. Lincoln on October 2, 1934, "are composed of good people," they have "very dignified and very able literature, and yet I am not able to make up my mind that they have accomplished very much, and feel rather sure that they have not been properly financed. . . . Now, on the other hand, when I look at the American Liberty League, I am astonished at the reception it has had. The number of members coming in and the amount of money coming in has been very extraordinary." Apparently the right formula had been found.

In the same letter Mr. Stayton said what he thought the policy of the Liberty League would be. "Broadly speaking, my feeling is that the federal jobholders are in effect a public enemy and they must be fought, and that the American Liberty League will in the long run be found fighting against the doings of federal jobholders, for they are seeking to enlarge their jobs and to spend the money of the people while doing it. I doubt very much whether the League will ever take up a mere question of expediency, but I do believe that it will not allow a single Constitutional question to pass without challenge." And, to reassure Mr. Lincoln, Mr. Stayton wrote in a subsequent letter, "In most of the fights which you have named, I would be with you without reservation"—the fights which, as we have seen, the Sentinels had fought.

We now know how prophetic Mr. Stayton was. The Liberty League, both in names and in contributors, was successful in assembling most of the reactionary forces of America. Its principal supporters were members of the du Pont family, but in the list of contributors were most of the prominent men who had given to the other liberty-saving organizations, and many others besides. It did fight all extension of governmental power, no matter what the emergency or what the possible benefits. In "preserving the Constitution," it even went so far as to form a committee of prominent corporation lawyers, who issued reports—in advance of the Supreme Court decisions—denouncing as unconstitutional the N.R.A., the A.A.A. and the Wagner Act to establish labor's right to collective bargaining, and to outlaw employer influence in forming or sustaining company unions. The League's pamphleteering has been voluminous and skillful.

No doubt the leaders of these liberty-saving movements are, in their own minds, sincere and desirous only of noble ends. But, objectively considered, the above data would seem to establish that the Liberty League crusade for liberty conforms largely to the following formula:

1. The crusade is supported largely by big business and finance, in their own interest.
2. In ideas it assumes the protective coloration of American traditions, by using stereotypes like "liberty" and "the Constitution," which arouse automatic loyalty.
3. In action it assumes the protective coloration of a popular movement, while the support by men of wealth is concealed, or at least not advertised.
4. Its general objective is to limit or even to reduce the



power of government as a dangerous rival which can, if not in the hands of big business and finance, challenge their economic power and their opportunities for profit.

5. The detailed and contributory objectives are to defeat legislation imposing taxation on those of large income, regulating or establishing competition with big business, or offering governmental protection or aid to women, children, the aged, the sick, or to small investors, labor and the farmer.

6. Those behind this crusade particularly fear and resent governmental investigations which reveal their objectives and methods. They defend themselves in some cases against publication of their telegrams, letters and documents by the plea that their activities, so closely concerned with public affairs, are private matters subject to the Constitutional guarantees against search and seizure, or of freedom of the press.

## 7. LIBERTY IN INDUSTRY

A CONFLICT of liberties that has been waged for years in many industrial nations, and with peculiar bitterness in the United States, is that between the liberty of workers to organize into unions and engage in collective bargaining with employers about wages, hours and conditions of work, and the liberty of employers to dominate the conditions of employment without the intervention of independent labor organizations. To repeat all the arguments and theories that have centered about this struggle would fill volumes. The simplest statements of the two cases are obvious enough and have many times been made: (1) in a democratic society workers have the right to associate together for improvement of their conditions, the right to bargain as a unit for the only thing they have to sell—their labor services; (2) in a society based on private ownership of capital, the owner of a business has the right to manage it as he sees fit.

Fundamentally, this is an issue of the right and the fitness to govern. Industry is a realm, the operation of which conditions the lives of all in a modern society. It determines the circumstances of existence both for those who work in it and for those who consume its products—and these are not only the majority of the nation, but largely the same people. The labor movement is therefore essentially democratic in principle, since it asserts the

right of the industrial citizen to have a share, through democratic procedure, in the decisions that govern his life. The anti-labor movement is essentially autocratic, since it asserts the right of a relatively small class to govern industry, without democratic checks. The same old debates that have always converged about democracy *vs.* autocracy in politics are continually refurbished in this case. Who gave the autocrats their right to rule? They often betray the popular interest by their self-seeking. They keep the best for themselves; they are sometimes cruel, careless, callous to the popular needs and inefficient. On the other hand, it is urged that the mass is unintelligent and cannot seek its own best interests. Those who govern are those better fitted by inheritance, training or accomplishment. Moreover the mass is exploited by demagogues. It never will really rule; a nominal victory for it would merely change the persons having power, substituting worse for better. It is significant that in the most democratic nations such as France and Great Britain, the labor movement is strong, while the very first moves of avowedly anti-democratic Fascist dictators such as Mussolini and Hitler were to destroy the independent unions and labor parties.

Since the tradition of democracy runs deep in the United States, the opponents of unionism here stand at a disadvantage in debate, if the issue is stated in its crude terms. They have often suffered by this in the past—not so much in loss of actual power as in gradual loss of prestige and in the swelling of hostile public sentiment. The blunt coal operator who said publicly years ago that God gave him the divine right to rule his mines was too

pure a royalist to be anything but a butt of ridicule. Even later, when in 1921 and 1922 the "open" shop (closed against unions and union members) was defended as "the American plan" because it preserved the right of the individual to work for what wages and hours he pleased, the convincing answer was that the only right he really had was to work for what wages and hours the employer pleased, or not to work at all, since as an individual dealing with the superior economic power of an employer or association of employers he had virtually no influence over the wages and hours offered except in rare periods of labor shortage.

And so in recent years—and particularly after the inauguration of the New Deal—even some of the most autocratic employers have accepted collective bargaining as a phrase. The right of workers to collective bargaining was made law in Section 7A of the National Industrial Recovery Act, and, when that law was declared unconstitutional, it was re-enacted in the Wagner bill. Anti-union employers were forced, temporarily at least, to do something about it. They developed rapidly the latent technique of the company union or the employee representation plan. Being compelled to go through the motions of collective bargaining, they protected themselves by forming the kind of union they wanted, a union that they could dominate. Such a union is confined to a single plant or company; its constitution and by-laws are usually drawn up by the employer; it has no dues or funds and does not pay its own officers, who are themselves employees and hence subject to discharge or denial of promotion. Henceforth, independent unions and their organ-

izers were denounced as persons who interfered with or intimidated the worker in the exercise of his liberty to bargain through the company union. The anti-union employers announced their firm resolution to protect their employees in this "right." This was the main burden of a full-page advertisement inserted in hundreds of newspapers by the American Iron and Steel Institute to offset the steel organizing campaign of the trade-union Committee for Industrial Organization in 1936.

The National Labor Board, which administered Section 7A of the N.I.R.A., and its successor, the National Labor Relations Board which administered the improved collective bargaining section of the Wagner bill, had developed a democratic technique for dealing with this difficulty. The intention of the legislation was not merely to secure the liberty of the worker to bargain collectively, but to bargain through representatives of his own choosing. This included, in any realistic application of the principle, the right to choose an independent union to represent him, not merely the right to vote for representatives in an employer-dominated union. And so elections were held under government supervision, in cases where a genuine union asserted that it represented any given body of workers, to discover whether the employees wanted to bargain through the union or through the company's employee representation plan. This method had been in successful operation for several years on the railroads, where labor relations were governed by a separate law, and where the struggle between company-dominated unions and genuine unions had been in process ever since the shopmen's strike of 1922. It resulted

almost uniformly in victories for the independent unions. The Wagner Act went further than this by making it unlawful for employers to attempt to interfere with or influence the organization of labor and the choosing of representatives. The law charged the N.L.R.B. with the duty of preventing them from doing so.

What did the Liberty League have to do with this labor struggle? The debate had been going on for years before the League came into existence. But here was a clear-cut conflict of liberties, and the choice of sides by the new body was significant. It organized a National Lawyers' Committee to examine New Deal legislation and declare whether it was constitutional. This committee, among other activities, promptly reported that the Wagner Act was unconstitutional. Not only did it do this, but it advised employers to disobey its provisions. (The Supreme Court has not passed upon it as I write, and the subordinate federal courts have differed about it. A United States Circuit Court in New York State, the highest authority that has yet adjudicated the issue, has unanimously upheld the law in principle.) The Liberty-League Committee furthermore offered free legal services to any employer who, through disobedience of the act, became involved in litigation. Many important employers have in consequence disobeyed the law, by forming or dominating company unions, and by refusing to allow the national Labor Relations Board to hold elections to determine whether the workers preferred a genuine union. And the Labor Relations Board has had to contest, for the power to perform its lawful duty, against Liberty League lawyers representing law-breaking employers all over the country.

The action of the anti-union employers and the Liberty League in this matter indicates how much they really care for democracy and how sincere they are in protecting the liberty of employees.

So far, we have been examining the more public aspect of this struggle, the aspect that is usually discussed in the press, in hearings and courts. But there is a private and a decidedly more ugly aspect. There exists in the United States and has existed for many years, a large and profitable secret industry, the purpose of which is to spy upon union activity, to build up company-dominated unions, to betray unions to employers, to supply strike-breakers, to act as provocateur in stirring up violence, to draw up blacklists of active union men, to promote dissension in unions, to put traitors in places where they can mislead organizations of labor, steal or dissipate their funds, and generally to weaken them in the interest of hostile employers. This, too, is an old story. It has been subject to many inquiries and revelations, from time to time and in detail. Employers who utilize this industry may believe they are protecting their own liberty, but it can scarcely be more than a pretense that they are protecting the liberty of the employees.

Unions, in attempting to exercise their rights under New Deal legislation, and the National Labor Relations Board in attempting to enforce these rights, discovered that the secret spying and union-smashing agencies were one of the chief obstacles. A subcommittee of the Committee on Labor and Education in the United States Senate held preliminary hearings in April, 1936, to discover whether a full investigation of the subject

were desirable. In these hearings the Labor Board and union representatives put some amazing facts on the record.

Mr. Heber Blankenhorn of the staff of the Labor Board introduced an exhibit specifically listing 200 agencies whose exclusive or principal business was industrial espionage or strikebreaking. "Included are a dozen national, or area systems 'with offices in all centers' and agents in any industrial locality. (Excluded are the 'service departments' characteristic of the chief largest industries, which only hire the agencies in emergencies, or as supplementary.)" Mr. Blankenhorn estimated that these agencies employ a minimum of 40,000 operatives and do a business costing a minimum of \$80,000,000 a year.

In the Labor Board report, prepared by Mr. Blankenhorn after careful investigation, the following passages appear.

Detective agencies . . . have spies for sale and armed strike-breakers and munitions. "Labor trouble" is not merely to their business advantage; it is practically their whole business. They inform clients of "trouble," they threaten it, and often where it is not forthcoming they make it. They have "operatives" furnished with any sort of union card, skilled in aiding union organization, if need be, so that the agency may be hired to break the union.

Since violence is to their advantage they have instigated or directly created violence. Their operatives have been convicted of violence in the past. The same agencies are equipped today to do the same things. . . .

The individual agent or spy knows he won't draw pay long if he reports "no trouble." The agency knows the pay stays small for merely spotting union men for discharge, and then the



pay ceases. All know the big money is in "trouble," the larger and more violent, the more profitable. . . .

Their lawyers, including very eminent counsel, attempt in court to protect their secrecy as a business right. They have largely succeeded in doing so. . . .

Some police authorities regard strikebreakers as a considerable criminal class. Federal authorities have raided them, communities have driven them out, and a few states have legislated in their restraint. . . . "Industry turns out criminals faster than the government can catch them."

Later Mr. Blankenhorn made the startling statement that "one agency hired a college professor to spy on a meeting of economists."

These and other general charges were substantiated in the hearings by accounts of numerous specific events, citing names, dates and places. For example:

A letter from Robert J. Foster, of the Foster Service, New York City, promised a prospective client that if a union were formed, the agency would "control the activities of the union and direct its policies." If a strike were imminent, the agency would "carry on an intrigue which would result in factions, disagreement, resignations of officers, and general decrease in membership."

In Pekin, Illinois, there was labor trouble in February, 1936, at the plant of the American Distilling Company. Existence of espionage was revealed in Labor Board hearings. A strike occurred. Tear gas was used against the picket line by local authorities. (Tear gas is one of the common stocks-in-trade of many of the industrial agencies; it is offered to clients along with machine guns, spies, strike-breakers and lawyers.) So intense was the resentment of labor against this violence that a general

strike was declared in the city. Open armed conflict seemed to be imminent. At this moment the Peoria Manufacturers' Association sent into Pekin two men, at least one of whom had a criminal record, both dressed in police uniforms and armed. Their names were Charles and Edward Summers. Their arrest by local authorities led to the discovery of the facts about them. A letter from the Secretary of the Manufacturers' Association, Mr. L. E. Roark, admitted that they were sent in without the knowledge of the local authorities, and that they were registered in the association's employment office as "deputy sheriffs and special guards." Charles Summers had been convicted and sentenced several times, once for robbery. Afterwards he testified before the Illinois State parole authorities as follows: "Kinsella was causing a lot of trouble for the Manufacturers' Association, and Mr. Roark thought it would be a good idea to put him in the hospital for awhile. He offered me \$50, \$25 of which he advanced." If Summers had not been arrested and the general strike had not been called off, local civil war might have resulted.

In Akron, Ohio, a bitter strike of employees of the Goodyear Rubber Company in February, 1936, enlisted the support of almost the whole community and nearly resulted in a general strike. What aroused the city's workers, according to Mr. Blankenhorn's testimony, were the following facts.

1. The Company had nullified orders of the National Labor Relations Board intended to secure collective bargaining, by contesting these orders in the courts.

2. Sheriff's deputies, armed with tear gas, guns and clubs,

had recently violently disrupted a picket line in a strike at the Ohio Insulator Co., near Akron. It was announced that these deputies were paid by the company. (Strike-breaking agencies make a regular business of supplying thugs, to be deputized as public officers of the peace, while they are paid by the employer.)

3. Labor spies had just been discovered and exposed in the rubber unions.

4. In the previous year, as reported by Edward Levinson in his book "I Break Strikes," the three big rubber companies had approved the plan of a strike-breaking agency, Bergoff, to form a vigilante organization known as the Citizens' Law and Order Association, to be "like the Ku Klux Klan used to be." All members were to be sworn in as special deputies. The companies raised \$50,000 to finance this association. The passage from Levinson's book describing this plan was read to a mass-meeting of rubber workers. Now a Law and Order League was being formed by ex-Mayor Sparks, to fight labor, and its members were being deputized. An Akron newspaper reflected public sentiment by denouncing this League in a front-page editorial, saying, "If the Law and Order League does not at once abandon its stupid and dangerous program, then Akron can prepare itself for a bath of blood."

Thus do employers' efforts to fight the mere existence of unions lead toward disruption of civil peace and civil liberty. You cannot have liberty in a community infested with spies and armed trouble-makers, a community in which public officers are in the pay of one party to a controversy, a community in which officials are in league with gangsters and law-breakers. These are but a few instances out of many, examination of which led the Senate Committee to write in its report:

Wage-earners attempting to take advantage of their legal right to organize find that to do so imperils their right to peace-

able assembly, to freedom of speech, and to vote, no less than to keep their jobs. . . . Public records show the close organizational connections between professional spy and strike-breaking agencies, plant munitioning concerns and a league of lawyers sponsoring concerted obstructiveness in the courts. . . .

Proof of espionage touched the largest corporations (*e.g.*, United States Steel, rubber, auto, and textile companies); names were named, money paid over was produced at the hearings, and past official denials by some corporation heads were shown to be merely a part of the espionage technique. . . . The Labor Board, terming it all "very dirty business," finds that espionage "has probably become the principal method of frustration of the policy of the act." Yet the Board found reputable lawyers for industrialists telling it there is something in the Constitution of the United States which prevents American governments doing anything to correct this outrage. . . .

Usurpation of police powers by privately paid "guards" and "deputies," often hired from detective agencies, many with criminal records, is a general practice in many parts of the country. . . . There are areas where no union officer can go without risk of personal violence. . . .

Munitions, *e.g.*, gas bombs and machine guns, for use against strikers have been stocked since 1933 by industrial plants, or by local authorities, though often paid for by industrialists. This munitioning continues. . . .

One is reminded of the tyrannies and abuses of power listed in the Declaration of Independence. Representative government in industry, even though established by act of Congress, is denied, and the denial is enforced by every means of violence, intimidation and corruption that the law-breaking employers can devise.

Nor is the injury confined to wage-earners alone. "Spy and strike-breaking agencies not infrequently assume the masks of patriotism, ultra Americanism, or some form of

public service," the Labor Board reports. One example, it states, is the American Vigilant Intelligence Federation, whose "honorary manager" is Mr. Harry A. Jung. Mr. Jung was associated with Mrs. Albert W. Dilling in compiling a book called "The Red Network," which denounces as Reds a long list of prominent persons having liberal or progressive views. This book is used as a reference work by "patriotic" bodies who attempt to suppress public speeches by anyone listed. Their un-American practice is, through assassination of reputation, to try to deny freedom of speech to anyone with whom they disagree.

Is the Liberty League associated with these activities? Mr. Blankenhorn, in his testimony, showed that Federal Laboratories, Inc., of Pittsburgh sold to employers, or acted as broker for, tear gas, vomit gas, Thompson sub-machine guns, Smith and Wesson revolvers, gas guns, grenades, billics and armored cars. A member of its Board of Directors is W. W. Groves, president of the Railway Audit and Inspection Company, "which operates a number of espionage and strikebreaking concerns throughout the country." Another director of Federal Laboratories is Roy G. Bostwick, the law partner of Earl F. Reed. Mr. Reed was chairman of the subcommittee that wrote the brief against the Wagner labor law for the National Committee of Lawyers of the American Liberty League.

The third largest shoe manufacturer in the country engaged the largest strike-breaker in the Middle West. This strike-breaker, questioned by the National Labor Relations Board, defied it, and was defended in doing so

by the attorney of the shoe company, who was a member of the Liberty League lawyers' committee.

A large auto accessory company engaged a big labor detective agency and was defended in doing so before the Labor Board by an eminent member of the Liberty League lawyers' committee.

The chairman of the Liberty League lawyers' committee appeared before the Board "defending a steel company, which is buying tear gas from the chemical company, and spies from the detective agency, whose offices interlock with the Liberty League lawyer."

Of course the Liberty League and its lawyers' committee do not in public pronouncements advocate violence and espionage, even though they advocate disobedience of the Wagner Act. Their public appearances are dignified and their reports deal with abstruse Constitutional issues. But when it comes to supporting the action of employers who are fighting unions, it could hardly be otherwise than that individual members of the committee should defend the varied devices of these employers. The Liberty League came upon the scene long after the questionable practices were developed; it did not invent them. They will continue after its disappearance. What is important, however, is that it attempts to associate the revered symbol of liberty with those who think liberty means this sort of thing.

We have seen that in politics, Liberty League liberty means fighting against government as a dangerous regulator or rival of private business enterprise. We have seen that the effort is either to control government so that it shall not exercise this power, or, if government cannot be

so controlled, to combat it and disobey it. In industry, Liberty League liberty likewise means controlling, corrupting or fighting against organized labor as an aspirant for a share in power over private industry, and trying to prevent government from being used as an agency to secure labor's liberties. It is apparently a matter of little concern to those who believe in Liberty League liberty whether their activities require deceit, corruption, espionage, civil violence or suppression of the Bill of Rights as a safeguard for others than themselves.

## 8. THE NEW STATES' RIGHTS

IN Springfield, Illinois, Abraham Lincoln lies buried. It was the work of Lincoln's life to establish the sovereignty of the Union as against that of the separate states. Yet on June 10, 1935, in Springfield, a convention of Republicans met to invoke his blessing on an appeal to the country in behalf of states' rights. "We believe," the embattled Republican grass-rooters resolved, "that the maintenance of the independent sovereignties of the federal Government and the several states, as guaranteed by the Constitution, is vital to the maintenance of our American System of government, and we reaffirm the wisdom of our forefathers who reserved to the states their power over matters of intra-state and local concern. . . ."

In Charleston, South Carolina, was burned the first powder in the War between the states, when the muzzle of a cannon was trained on Fort Sumter. That shot gave the signal for the great protest against the supposed invasion of states' rights by Abraham Lincoln and the Republicans of his time. Six days after the grass-rooters' Springfield convention, we find the *Charleston News and Courier* expressing again the doctrine that the bitter enemies of Lincoln held. But it is in perfect sympathy with the chief aim of those of today's Republicans, who wish to preserve the existing economic and political order



intact. Like them it appeals to the states' rights doctrine. "This state entered into a contract with other states 146 years ago, and once before the contract was violated by bayonets. We would like to know before the discussion of change of government goes further whether or not we must submit to the outcry of the urban masses or get shot."

What brings Springfield at last to Charleston?

In the same Springfield convention, the delegates, like the Southern slaveholders before 1860, rested their case upon the Constitution. Not merely upon its preservation, but upon its preservation without amendment. "We believe in the Constitution of the United States." Mr. Frank O. Lowden argued that if it were amended to give the federal government more power, it could also be amended to end the separation between executive, legislative and judiciary, or to abolish the Bill of Rights. No amendment, therefore, was safe. But when the slave power similarly appealed to the Constitution, Lincoln replied, "This country, with its institutions, belongs to the people who inhabit it. Whenever they shall grow weary of the existing government, they can exercise their constitutional right of amending it or their revolutionary right to dismember and overthrow it."

Then, as now, this was no academic issue. The Constitution was used to prevent the federal government from interfering with slavery, just as now it is regarded as a bulwark against federal interference with the private government of industry. In both cases the issue was raised in concrete form by Supreme Court decisions. The Dred Scott and other decisions, supporting the slaveowners,

were hailed by Southern Democrats as the Schechter and other decisions, supporting the industrial power, are now hailed by industrial and financial interests. The court interprets the Constitution; therefore the black robes of the Justices became mantles of sanctity. The Court was then exalted by those who wanted no change in the economic system of plantation slavery, just as it is now exalted by those who want no change in the economic system of industrial capitalism. But if Lincoln's spirit had emerged from his tomb to speak to his professed followers in Springfield, they might have been horrified to hear a repetition of words from his first inaugural: "The candid citizen must confess that if the policy of the government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made in ordinary litigation between parties in personal actions, the people will have ceased to be their own rulers, having to that extent practically resigned their government into the hands of that eminent tribunal."

What brought about this remarkable change of clothing? Why are Republicans now acting as Democrats did before 1860? It is not mere lack of knowledge of history. Leading Republicans are not unaware that their party's historic role has been to oppose rather than to emphasize the doctrine of states' rights. This is not a question of abstract principle. Like the Southern planters before the Civil War, the industrialists are now using the Constitution to protect their property rights.

The victory of the North abolished slavery, established

the protective tariff and free enterprise. The plantation owners were ruined; industry and finance, rid of their chief obstacle and in secure control of the federal government, ate and waxed fat. But just as the small farmers and laborers had once turned against the slave power, now they began to turn against the industrial and financial power. In foray after foray, they tried feebly to use the federal government to check the new masters of the country. Again and again they were turned back. Eventually, however, in a crisis, they assumed a more ominous role. Under the temporary leadership of a President who happened to call himself a Democrat, they induced the federal government to embark upon policies designed to curb centralized industry in the interest of smaller business, farmers and laborers. Industry and finance have managed largely to neutralize this New Deal, but its threat remains. The central government may yet be mastered by the insurgent forces and used to more definite purpose. So the industrial power, like the slave power before it, resurrects the doctrine of states' rights to prevent the federal government from becoming dangerous, should it fall into the hands of the enemy. Big business, having outgrown the need of help by the central government and having become superior to it, prepares to cast it aside.

This analogy, like all historical analogies, is not exact. The slave power held a particular group of states, regionally separated from the rest of the country. It cannot be said that the big business power holds a particular group of states in this sense, or that it is so regionally segregated. It may lose control of any given state as

readily as of the federal government itself, since its opponents live inevitably where its property and activities lie. Why then, does the doctrine of states' rights offer it any protection? If the analogy is to hold, it is because the separate states are powerless in respect to industry, as compared with the federal government. It is because the opponents of private capitalism, even if they administered state governments, could not exercise the power over it that they could exercise with the force of a competent national government. Is this true? Let us see.

Though it has been brewing for some time, and has appeared in speeches by Presidents Coolidge and Hoover, the current boiling-over of enthusiasm for states' rights rests upon the unanimous decision of the Supreme Court in the *Schechter* case, a precedent followed in the *Guffey* coal case and others. In depriving the National Industrial Recovery Act of constitutional sanction, the Court relied upon two main points: first, delegation of legislative power to the executive: second, federal invasion of the rights of the states. The first we need not here discuss, since it is the second that contains the broad prohibition. It appears not merely to invalidate the act as drafted and to condemn the practices of the N.R.A., but to forbid any federal attempt to regulate hours, wages, prices, production or costs broadly throughout industry.

Nobody but the expert in Constitutional law is qualified to say exactly what a Supreme Court decision means, and to predict what the Court will do in the future. Even the experts are frequently wrong. The Court appears to reverse itself; it applies a distinction in one way in one case, and in quite a different way in another case. This

chapter does not pretend to be an essay in Constitutional law. But all this is beside the point. What we are discussing is rather what the conservatives think the decision means, what they firmly intend to make it mean. They praise the Court because they suppose it supports their position; if the honorable justices really had something quite different in mind, that is unimportant in the practical political situation. The ineffable mysteries of the judicial mind we shall not rudely question. Let us suppose merely that what the decision appears to the layman to mean becomes a permanent policy. What power over industry can government then assert?

The Court says that the employees, the regulation of whose wages were in question, were admittedly not engaged in interstate commerce. The poultry on which they were working "had come to a permanent rest within the state." In spite of its suggestion of weeping willows and gravestones, this clause has serious implications. People who work on processing, transporting or selling anything that is dispensed to consumers within the same state are not engaged in interstate commerce and hence are not subject to Federal regulation on that score. It makes no difference where the article in question comes from, or where its material comes from. On the basis of former decisions, it seems likely also that people engaged in manufacture, mining, forestry, fishing or agriculture, and who do their work within the boundaries of a single state, no matter where their products are sold, are supposed not to be engaged in interstate commerce. In other words, those who are subject to federal regulation on this ground consist only of railroad men and others whose

occupations involve physically moving goods or selling them from state to state. A small minority of the population.

Next, there might be ground for federal intervention if the activities of the persons in question "directly" affected interstate commerce. "Indirect" effects are not enough to make national laws valid. This distinction is at the heart of the matter. "In determining how far the federal government may go in controlling interstate transactions upon the ground that they 'affect' interstate commerce, there is a necessary and well established distinction between direct and indirect effects. The precise line can be drawn only as individual cases arise, but the distinction is clear in principle." To those who read what follows, the distinction may not be so clear as it is to the Court. But there is no doubt about the outcome. In the case of persons not employed in interstate commerce, "their hours and wages have no direct relation to interstate commerce," and hence cannot be regulated. This applies to the vast majority of employees in the nation. And it applies not only to hours and wages, but to prices and all other elements of cost as well, because the Court explicitly says that if Congress could regulate hours and wages it could regulate these other things also, and from such a proposal it draws back in horror.

The contention of the government that the general levels of hours, wages and prices do affect the national stream of commerce and hence are within its power is thrown out as too broad. This argument, the Court says, proves too much. If it were admitted, there would be virtually no limit to central power. Quite so. And still the argument

may be economically true. The Court disregards the economic facts in favor of the Constitutional distinction which it feels compelled to make. And in order to make this distinction, it has to deprive the Federal government of nearly all power over the basic economic factors. At least, that is the practical result of the decision, and it is the result that the industrial and financial interests welcome and will attempt to perpetuate.

One would think, from reading the words of the Court and the conservatives who hailed its decision, that they were preserving a privilege for the states. One would think that they wanted the states to act, and were keeping Congress out of the field so that the states could do so. They do not remind us, however, of the narrow legal and economic boundaries of state action. The federal government cannot regulate hours of work—that would never do, because this is the sacred province of the states. But the Supreme Court has previously decided that the states cannot go far in regulating hours either—that is, the hours of men. They can set some limit to the work of women and children. But here there are economic hindrances, which conservatives do their best to set up as bars to action.

On the invitation of former Governor John Winant of New Hampshire, I once testified before a legislative committee in behalf of a forty-eight hour bill for the women of that state. It was bitterly opposed by textile employers on the ground that it would raise costs. Mills in Southern states, working longer hours, already had lower costs. In order to convince the Committee, I should have had to prove that the textile operatives could pro-

duce as much in a shorter time as in a longer one. There are examples tending to prove this, but it is a difficult thesis to establish in the abstract, and in any case there are limits beyond which shorter hours do not tend to more production. The employer representatives, with no proof at all of their position, won an easy victory. Social legislation by states is always slow and spotty because of this handicap. Again and again employers' representatives will present impressive arguments to show that the state in question is losing business and decreasing the employment opportunities for its workers because it is in advance of the procession in matters of social legislation.

The federal government cannot regulate wages—this right is also solemnly reserved to the states by the Schechter decision. But the state had already been deprived of that right by other decisions—even of the right to set bottom limits to women's wages. The Supreme Court invalidated the District of Columbia minimum wage law, and prevented a board from enforcing its ruling against wages that were too low, on the ground that this power violated the sacred right of contract. Minimum wage laws and boards have persisted since that decision in several states, relying merely on publicity to enforce their rulings. Even new laws, more carefully drawn, like that in New York State, have failed to pass the court test. There is some virtue in publishing the fact that a certain employer or group of employers is conducting a sweat shop. But when this is the kind of regulation on which we must rely, there can be no prompt or decisive effect on the general wage level. The wages that are already being paid—the prevailing wages—inevitably set the standard



of judgment. We simply single out a few women workers in laundries, clothing shops or hotels and say—these workers are so much worse off than the others that they can scarcely live at all. They ought to have a few cents more per week. That is a good thing to do, but it is a mere police measure, not a renovation of the economic system. The power so righteously reserved to the states is the next thing to no power at all.

As to prices, the judges have already set all kinds of complicated limits on state power. There are many prices that the states cannot regulate—prices in industries “not affected by a public interest.” Only the inscrutable logic of the court enables them to decide which industries are affected by a public interest and which are not; no one can certainly predict in advance what they will say about any particular industry. All one can predict is that the judges will not be eager to enlarge the category, and that legislatures, in establishing price-regulation industry by industry, are slow in adding new instances for the courts to decide upon. If anyone expects that as the result of the Schechter decision the states are suddenly going to burst forth with public regulation of prices, he must expect that green cheese is going to rain from the moon.

States can, of course, regulate prices charged by local utilities and certain other industries as the court permits. But stop a moment—can they? A few days after the decision on the N.R.A. reaffirmed states’ rights, another decision of the Supreme Court denied the right of the State of Maryland to reduce telephone rates as much as its regulating Commission had declared they ought to be reduced. If rates do not provide a “fair” return (the

Supreme Court of the federal government deciding what is "fair") on the "value" of the property (the Supreme Court of the federal government deciding what that value is on any given date) the rates deprive the utility of its property "without due process of law" and hence are in violation of Amendment Fourteen of the federal Constitution. This is not the place for a discussion of the painful and intricate process of valuation of public utilities. Suffice it to say that on this subject there is a large area of complicated and legitimate disagreement, and that on this subject the power of the federal courts is superior to the power of the states. Do we hear the financial interests and the industrialists raising their voices in protest against this usurpation? Hardly. We hear only defense of the Constitutional rights of the utilities—this time of their federal right to be protected by federal courts against state power.

Suppose, by a series of miracles, the separate states should assert and gain from the courts the right to regulate a large array of industries. Still they would be prevented by economic obstacles from doing much regulation of products that were sold in competition with products from other states. You may with relative impunity regulate hours, wages, or prices in the case of things that are wholly made and sold within one state—such as telephone service or, in some cases, electric current. But real state regulation of steel, automobiles, of almost any of our great manufacturing industries, is next to inconceivable.

"Our forefathers," said the grass-rooters, "who reserved to the states their power over matters of intrastate and local concern." But the power that our forefathers re-

served the courts have taken away, and none more than the federal courts. The state's right to legislate about industry is not the right to govern it; it is the right to do nothing about it—and to prevent Congress from doing anything about it. None knows this better than Supreme Court justices, grass-rooters and industrial interests.

Let us be fair to the proponents of state action. There are some things the states can do, outside the control of hours, wages and prices. They can abolish child labor (within their separate borders). They can establish and enforce standards of industrial safety. They can provide accident compensation, old age pensions, widows' pensions, other kinds of social insurance. They can even set up unemployment insurance. There are practical limits, of course, fixed by the burdens that the costs of these measures impose upon the industries of the states that pass them. These burdens may to a certain extent be equalized by federal legislation, as in the new Wagner unemployment insurance law taxing employers in states that do not have the insurance more than employers in states that do have it. But this law may be declared unconstitutional. The federal government may sometimes equalize burdens by a distribution of grants to states.

States may forbid monopoly within their borders, just as the federal government forbids it in interstate commerce. States may levy taxes and use the proceeds for innumerable public purposes; they may even, apparently, employ taxation to break up chain stores and give an advantage to small independent proprietors.

It must be noted, however, that measures of this kind are not, in the proper sense, regulation of industry. They

leave the system of private enterprise free to do what it wants to do, or what it can do. They merely attempt to limit or repair its incidental damages to human beings, to fill in the niches that it does not cover, or perhaps even to enforce competition. They are not regulation in pursuit of a coherent plan or national purpose.

Defenders of state action have tried to get round its competitive obstacles by the device of interstate compacts. If one state cannot achieve a certain object alone, or if it fears the competition of other states when it raises the costs of its own business units, it can, like an independent nation, make a treaty with the other states concerned, by which all agree to take the desired action. If ratified by Congress, this treaty has the force of law.

But interstate compacts present difficulties. They are a clumsy attempt to duplicate the Federal government itself, when the Federal government is prevented from acting. The states originally got together and formed a national government to serve their common needs. Now they are obliged to come together again and make treaties with one another, instead of having the legislature of their Federal government pass the desired laws. The negotiation of a treaty is a delicate and difficult matter. It has to be ratified by the separate legislatures. In order to be effective, it requires the unanimous consent of the states involved; whereas in Congress a majority is sufficient. No government anywhere ever worked well by unanimous consent. Twelve manufacturing states, let us say, employ child labor; nine wish to abolish it and propose an interstate compact; three will not agree and so threaten the

others with the competition of their cheap labor; the nine that are progressive and contain the majority of children and of voters are forced to choose between continuing to permit child labor or suffering from the competition of low standards in the others. In a case like this, the interstate compact is even more clumsy and difficult than a Constitutional amendment, which can be ratified by three-quarters of the states. If the people of this country must rely on separate Constitutional amendments for every addition to important economic legislation, we are lost. To rely on interstate compacts is even more hopeless than that.

Whatever the states may be able to do, there is one kind of thing that they certainly cannot do, and that is the kind of thing that the sponsors of the New Deal announced it was going to do, the kind of thing that brought President Roosevelt an overwhelming popular majority in 1932. The states can trim the economic system about the edges, but they cannot improve the central principles of its operation. It may be argued cogently that President Roosevelt's program itself was little but trimming about the edges, that it was doomed to failure because as a whole it was not carefully enough planned, because it was not thoroughgoing enough, because it left too much power in the hands of private industry. But, irrespective of that belief, there is no possibility whatever of effectuating any program of national planning to produce the abundance that we are capable of producing, as long as the planning must be delegated to forty-eight separate sovereignties, no one of which has power over the essentials of economic life.

A minimum wage or maximum hour measure merely tries to prevent parasitic trades from going too far below prevailing standards. Unemployment insurance is merely a more efficient scheme for keeping alive the victims of unemployment—and then for a short time only—rather than an attempt to prevent unemployment. Rate and price regulation, as far as it is within the states' power, is, if it works at all, only a safeguard against exorbitant prices, not part of a system of planned prices or of planned production. Bitterly as property interests fight against these minor curbs on occasion, they carry no really serious threat to the owners and managers of industry. But any attempt to raise wages or cut hours generally, or to plan prices or production on the basis of a general social program, is an invasion of the powers hitherto enjoyed by private industry and is feared by them above everything else. It is an issue that is vital to them as the preservation of slavery was to the planters in the first half of the nineteenth century. And anything of this sort is now as thoroughly prevented by a maintenance of "states' rights" as was the abolition of slavery in the South by the same doctrine before 1860. In both cases the effect of the courts' interpretation of the Constitution is a bulwark of the ruling property interest of the day.

Some liberals defend the new philosophy of states' rights because they believe in decentralization and fear the development of bureaucracy. But they forget that the major part of industry is already centralized—in private hands. To decentralize political power over it is merely to prevent the people from doing anything to it at all. The bulk of the manufacturing of the United States is in the hands of

approximately two hundred big corporations. If the national government controlled this business and these corporations, it would have to solve the problem of centralization *vs.* decentralization. Though some decisions would have to be centrally made, it would be wise to decentralize many activities. No issue of this sort, however, is now before us, because, under the circumstances, we cannot control industry at all. The real issue is private control *vs.* public control. The program of supporting states' rights is, for big private industry, the program of divide and conquer. Divide the non-owners who might wish to influence the government of industry into forty-eight water-tight and incompetent compartments. Maintain the right of big owners (incorporated under the laws of Delaware or Maine) to do a national business as they see fit. So capitalism survives, for a time, the political revolt of the people.

Reliance, however, upon the Constitution as it stands, and upon the special interpretations given it by the Supreme Court, is likely to put too much strain on those institutions if large numbers of citizens continue to want to exert governmental influence over industrial practices. The strain caused a violent break in 1860. And it has been increasing rapidly in recent years. Only 26 acts of Congress were held unconstitutional in the century between the formation of the republic and 1900. In the next thirty years, 33 were so invalidated, or more than one a year. During three and one-half years of Franklin D. Roosevelt's administration, five major federal laws were vetoed by the Supreme Court. By conservatives, this is regarded as a condemnation of the administration. But,

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in the longer view, it looks more like the culmination of a historic process, the sign of an accelerated disparity between constitutional interpretation and the needs of the people.



## 9. OUT THROUGH THE BACK WAY

How may that kind of liberty now craved by the majority of the people be organized? How is it possible to obtain an equitably shared abundance, and to obtain it securely? How can the daily work of the millions be made a significant participation in this national purpose? And if the system appropriate to this purpose is installed, what kinds of liberty must be restricted, in the interest of the enlargement of the more desired liberties?

We need spend little time on the proposition of the apologists of wealth—that the masses will receive these benefits, as nearly as possible, simply by keeping the existing system of liberty for financial and industrial oligarchy, modified, if at all, only by certain police measures in the interest of conventional honesty. Hardly an economist or political scientist of repute believes this to be feasible. The most conservative of them, those who adhere to the classical system of *laissez-faire*, see how far the present order is from such a system, how many barriers it has raised to freedom of trade, how many rigidities of prices and costs it has introduced, how many inequalities it has brought about. Some scholars believe in going back to an earlier status; some believe in going ahead, in varying measure and in varied directions. But few would preserve without substantial modification the

structure of 1929, or believe that we could preserve it long if we would.

There is something to be said for the proposal to undo much that has been done in the past half century and go back to a practicable laissez-faire. It produced a supportable system of liberty in the limited areas where it existed, and its theoretical background is a thoroughly reasonable one, granted its premises. If competition among sufficiently small units really does prevail, it is argued, there will be flexibility for adjustment in the system, which will in time pass on to the workers the benefits of technical improvement and decreased costs, and will absorb shocks of change, whenever the need arises, without too much or too prolonged disturbance. The uncontrolled forces of the market may do the work that in a consciously administered system would raise perplexing problems, both technical and political. If the old unrestricted system could prevail among the nations—as it must if it is to operate satisfactorily—the absence of trade barriers, the free flow of capital and a stable international monetary unit might provide the proper conditions for the development of backward regions and the economical exploitation of resources, for a gradually rising standard of living throughout the world, and, most important of all, for the absence of war.

So enamored have many people become of this prescription, so persuasive is its reasoning, that its advocates tend to minimize, first, the difficulty of achieving it, and second, the difficulty of preserving it, once achieved. They do not understand how much would have to be undone and how far back we should have to go. And they do

not remember the important truth that freedom for private enterprise carries with it as an inescapable consequence freedom for the growth of inequalities in economic power that destroy the freedom of small competitors and labor, and make governmental intervention certain.

Take, for instance, the task of reintroducing, even within one nation, a sufficient degree of competition so that prices and costs really would be flexible, and the automatic forces of the market might be relied upon for regulative purposes. Some few industries have remained competitive in the sense approved by Adam Smith: that is, they are composed of a sufficiently large number of small enough units, for the most part managed by their owners, so that the single enterprisers really are at the mercy of the forces of the market and cannot influence demand, supply and price except as they individually do a more efficient job than their competitors. But this is no longer true of the basic industries of the world. Some are real monopolies; some, without being actual monopolies, are able to carry on a number of monopolistic practices that interfere with the free market. Even where competition formally exists, if the units are large and relatively few in number, they will act in quite a different way in reference to prices and output than a large number of small competitors. They will, without any agreement, tend to restrict output rather than reducing prices when demand at the existing price falls off.

Popular discussion of this question vastly oversimplifies it—as economists themselves sometimes do in general arguments. It is assumed that there are just two clearly defined alternatives — monopoly or competition. If monop-

oly exists, it can be identified and the monopoly can be broken up, or the prices it charges can be regulated in the public interest. If competition exists, there is nothing to worry about. This view jauntily overlooks the fact that Congress and the courts, aided by arguments of experts, have for years been trying to define such terms as monopoly, restraint of trade, unfair competition, and in the attempt have produced such intricate and voluminous documents that it is difficult even for the technician to understand what they mean. After decades of trying either to break up monopolies or to regulate them, we are today further from the old type of free and flexible prices and small, competitive enterprise than ever. In 1932, two hundred enormous corporations controlled about 56 per cent of the corporate wealth of the country, excluding that of banks, insurance companies and other financial institutions. In 1931, the two hundred biggest manufacturing corporations controlled half the manufacturing assets of the country.

Consider the prices that, for one reason or another, do not change quickly in response to changed conditions. Steel rails remain at the same price for years at a time. Other kinds of steel, as well as cement, change little; the custom is for uniform prices to be quoted on such products by the few bidders capable of producing them. Automobile manufacturers are supposed to be competitive; certainly there are no monopolistic agreements among them. Nevertheless it is customary to set the price of a given car in advance for a year; each manufacturer fixes his price with a shrewd advance guess concerning what his competitors' price will be. The farmer, when he plants

his wheat, has no such control over the price a bushel of wheat will bring after he harvests it, no such advance knowledge of his competitors' policies. He is at the mercy of the market in a sense in which the automobile manufacturer is not. Typewriters, agricultural machinery, branded articles of all kinds have prices that are called by Gardiner C. Means administered prices, as opposed to those determined by uncontrollable market forces of demand and supply. This does not mean that the administered prices are not in the end subject to fundamental economic influences; but it does mean that they are not readily flexible, and that if an error of judgment is made in setting them, production may drop because the price is too high.

Administered or otherwise relatively inflexible prices make up an extremely important part of our whole structure of costs and prices at any given time. There are railroad rates, rates of electric, gas and water utilities, real property taxes, long-term interest rates, rents fixed by contract, wages and salaries fixed by contract, wages and salaries of public employees fixed by law, wages and salaries of all kinds that are not fixed by contract or law but are nevertheless difficult to change quickly, annuities, pensions and other forms of fixed income, doctors' fees and hospital charges, as well as the prices of a large number of goods offered for sale in the wholesale and retail markets. Out of 750 wholesale prices regularly recorded by the U. S. Department of Labor over a period of eight years, half changed less than three times a year. Most of these relatively inflexible prices did not result from any formal monopolistic control that could be ended

by anti-trust laws and governmental prosecution. They resulted from the existence of enterprises so large individually that they could fix prices in advance, or from custom, or from patent rights, or from contract, or from necessary regulation of one kind or another. No economic group likes to be completely subject to the unpredictable forces of demand and supply, and if it has or can gain any power to do so it will find a means of defense against them.

In order to see the difference between a genuinely competitive situation in the classical sense and one in which enough control exists so that quite different results occur, one need only contrast the behavior of agriculture with that of industry in the United States during the recent depression. Agriculture maintained its output undiminished, at least until the era of the A.A.A. and the drought of 1934, while the prices of farm products fell drastically. Industry as a whole, on the other hand, reduced its output, while the prices of industrial products fell much less than the prices of crops. Private enterprise in agriculture was compelled by circumstances to maintain abundance, as the classical economists said competitors would be compelled; but private enterprise in industry brought about scarcity in an attempt to protect its profit margins and its invested capital. An effort to make industry sufficiently competitive so that it would have as little power to restrict production as agriculture had would require the enforcement of such small units and such diminution of capital investments in them that we should be obliged to deprive ourselves of most of the technical advances of the past seventy-five years. We

should have to give up large use of steel and aluminum, of belt conveyors and automobiles and mass production. We should have to go back to stage coaches and cross-roads carriage shops.

An interesting table, prepared for the government by Gardiner C. Means, in his report, "Industrial Prices and Their Relative Inflexibility," suggests two conclusions at once—that there is a great difference in control of prices among different industries, and that, in a depression, keeping prices up means letting production fall, and vice versa.

PRICES AND PRODUCTION—1929 TO SPRING, 1933

	<i>Percent Drop in Prices</i>	<i>Percent Drop in Production</i>
Agricultural Implements	15	80
Motor Vehicles	16	80
Cement	18	65
Iron and Steel	20	83
Auto Tires	33	70
Textile products	45	30
Food products	49	14
Leather	50	20
Petroleum	56	20
Agricultural Commodities	63	6

Another difficulty not sufficiently recognized by the advocates of return is that the modern financial structure has brought inflexibility to costs. An enterprise that embodies only the capital of one owner-manager is more readily flexible; it has few fixed charges except in the remote sense of accounting theory. But an enterprise that is financed to any great extent by the savings or investments of outsiders has obligations for continual payment of interest or dividends, which must sooner or later

be charged against production. These relatively fixed costs lead to a pressure to maintain prices. When output falls off, the fixed cost charged against each unit produced becomes larger, thus increasing that pressure. The effect of fixed costs is aggravated when, as is increasingly the case in mechanical industry, the investment in plant and machinery becomes heavy relative to the wage bill. We have now reached a point in the development of our economic organization where a drastic reduction in industrial prices immediately imperils the savings of millions, the incomes of universities and hospitals, the whole financial structure of the nation. And yet such a reduction may become necessary if large output of goods is to be possible. To reintroduce anything like a flexible, automatic, competitive regulation might require the abolition of the corporate form of enterprise and our present collective methods of accumulating and investing capital. It would be a revolution beside which a change to socialism would seem like a small step.

So far we have been considering—though only in the most cursory and superficial way—the more purely economic obstacles to a return to classical *laissez-faire*. But how about the political ones? I once asked one of the leading economists who advocated this course what would be required to set out upon it. The first requirement, he said, would be a very strong central government, able and willing to enforce competition. But when it comes to enforcing competition by government restraint, the first principle of *laissez-faire* is abrogated. Government is embarked on a policing of private business that would keep busy a bureaucracy fully as large as one that



would be able to operate a socialist system. The checking of accounts, the accumulation of statistics, the policing of markets, the adjudication of complaints and the enforcement of orders would be a gigantic task. There would be one set of people operating business and another set almost as large to see that the first set obeyed the rules. For, to obey the rules would be contrary to the natural and dominant tendency of business. You can keep a community relatively law-abiding by a small police force when it is the habit and intent of most of the people to obey the law. But to impose a law upon a community that the community has not obeyed for fifty years and does not want to obey requires an army of occupation.

The meager results of trust-busting or of enforcement of competition achieved during the past fifty years, in spite of the strong political pressure behind the attempt, are not encouraging. The groups against whom regulation is directed are so powerful that they are likely to control the government that does the regulating, and in so far as they cannot do that successfully, they are likely to be more resourceful than the agents of government and so to escape the intent of the regulation. It is axiomatic that any government will, by and large, express the will of the most powerful economic class or classes that exist in the society which it governs.

Internationally as well the pleas of economists for lower tariffs and removal of other trade barriers have been observed in reverse by most nations, all the while the economists were preaching. This is not the consequence of the action of wicked politicians who are too

foolish or reckless to serve the business of the world. It is the consequence of the action of politicians expressing the will of business men themselves. Can industrialists and other pressure groups be convinced that in demanding these barriers they are opposing their own best interests? History offers little hope that they can. And a candid examination of their motives confirms history in this respect. The heaven of laissez-faire offered as a bait by the economists looks too remote and intangible. Frankly, the practical men do not believe in it. They are, rather, compelled by their experience to believe that someone else will take a monopolistic advantage if they do not, and that the first law of business life is self-preservation. What they do by groups and individuals endangers the whole order in which they exist; but the confusion of that order compels each group to try to safeguard its own market by keeping competitors out. We cannot abolish the law of the jungle except by abolishing the jungle.

There is a school of liberal opinion which holds that what it is so difficult to do by prohibition or regulation may perhaps be done by taxation. The taxing power of the government is supreme; it is not hampered by so many constitutional restrictions as the power to regulate industry. Instead of interposing a direct bar against private behavior it sets a framework that may influence private behavior, or turn it to social uses. Thus, it is argued, we may let businesses make as much profit as they can without any interference, if only we tax the profit away and use it for the benefit of the masses. Or, if we want to encourage small business and aid competition, we

can set up taxation that will discriminate against size, like the various state taxes recently passed to lay a heavier burden on chain stores and gasoline stations than on their independent competitors.

While heavy and progressive taxation on wealth is undoubtedly necessary to moderate the inequalities of modern capitalism, and will for some years to come be required as the price even of keeping the more unfortunate citizens alive, there are weighty objections to it, as an instrument for creating an order that may function to better purpose. If we permit large profits to be made by policies that promote scarcity of goods, and then take them away, we have done nothing for abundance of production and full employment in those sectors of activity that are dominated by the profit makers. The very making of the large profit often involves the charging of higher prices and the paying of lower wages than would be possible under the going technique of production. That means the creation of a relative scarcity in the common necessities and amenities of life in which private business deals. During prosperity the scarcity is not so serious, but if we do nothing to change rigidities of costs and prices, prosperity is likely to be followed by depression. Then the scarcity is disastrous, and there are few profits to tax.

Surely it is illogical first to allow private business to dominate the provision of food, clothing and shelter in such a way that people do not have enough, and then to take away the money of the rich in order to spend it in providing roads, parks, art galleries, forests and other admittedly useful things that are not as immediately

necessary as the articles that government, in so far as it refrains from competing with private business, cannot supply. In this respect the argument for profits taxation as a remedy misses the point in just the same way as does the old defense of wealth acquired by grinding the faces of the poor, on the ground that some of this wealth is given away for hospitals, education and other worthy charities. The old radical cry was, we do not want charity, but justice; and the objection to the taxation cure-all would similarly be, we do not want public works, but more to eat and wear, better homes to live in. In Great Britain the taxation of incomes and wealth has gone about as far as possible; and yet taxation has not prevented depression and unemployment there, or made a really significant change in the system.

Discriminatory taxation against large business may indeed hamper the growth of chain stores and similar aggregations of commercial units. This preserves the small merchant from the ruinous competition of the large. But, why cannot the small merchant, without the help of taxation, survive the competition of the large? There is a presumption that the reason is, in part at least, that he cannot offer the consumer such low prices or such reliable quality, that he cannot deal so successfully with the economically powerful sources of supply, or operate his business so efficiently. We must admit that the case is not entirely clear; misleading advertising, "loss leaders" and the like create a misconception in the consumer's mind about price comparisons, and the power of wealth commands the better locations and the larger advertising space. Nevertheless there are acknowledged to be im-

portant wastes in distribution that cannot be overcome without order and system depending upon integrated command of the distributive channels, and if we aim principally to maintain in business the small merchant we shall have little opportunity to eliminate this waste.

It is prudent to be sceptical about the effect of discriminatory taxation based on size alone in manufacturing, mining and construction. What good would it do to penalize the Ford Motor Company because it was bigger than the manufacturer of Duesenbergs? Or how far should we get by trying to introduce small enterprises in the steel industry? It is probable that some of the independent steel concerns are, by technical standards, more efficient than the bigger aggregations, and yet we can scarcely entertain hopes of any great changes in wage or price policies among steel manufacturers merely by doubling the relatively small number of enterprises that now exist. You cannot in any case finance steel production on a shoestring. In the presence of modern technique, and of the rigid costs created by large-scale capital investment, the prospect of restoring a workable laissez-faire by the taxation route is not bright. The road back to an earlier industrialism is effectually barred, and we shall merely waste valuable time if we attempt to travel upon it.

## 10. REGULATED CAPITALISM

WHAT other modification of capitalism can be made? A great deal of confidence nowadays is placed in a series of indirect measures that have been tried in most capitalist countries, and are being tried now in the United States, which Walter Lippmann aptly calls a compensated economy, or, less aptly, a free collectivism. Do not attempt to interfere directly, he says, with the practices or structures of private business enterprise. Admit that it will make mistakes, will bring inequalities, and will suffer alternate bursts of activity and inanition. But let the government act in such a way as to make up for these errors by introducing compensating forces. Central banking control of credit may limit over-expansion during a boom, and, by reducing interest rates and enlarging reserves during depression, encourage activity when more is needed. Add to this a governmental policy of taxation and spending which pays off debt during prosperity and enlarges it during depression in order to utilize idle purchasing power for stimulating production through public works. Devalue the currency if necessary and control foreign exchange in order to cushion the shocks of deflation from foreign sources. Regulate minimum wages and maximum hours in order to put a limit to exploitation. Provide against the effects of insecurity by a comprehensive program of social insurance for unemployment,

old age and sickness. Thus, it is contended, we can at once maintain freedom for business and safeguard the majority of the population who suffer as a result of the exercise of that freedom. In an extreme and chaotic form, programs of this sort provide the material for many monetary theories, as for Father Coughlin's National Union of Social Justice.

Moderate measures of this kind probably enlist more support at present among liberal scholars themselves than any other single program. They comprise the one attempt to mitigate the evils of modern capitalism that looks at all feasible. Yet it is necessary to be quite clear about their limitations. How much mitigation do they in fact provide; how satisfactory are they as an ultimate objective? They look like a coat of fresh but rather thin paint on a rotten structure. They may help to prevent a more complete and immediate collapse than would otherwise occur, but the time is approaching when more than paint will be required. Indeed, from the point of view of a desire for real liberty of the masses, this time is already past.

Central banks may increase reserve requirements or raise the rediscount rate and sell securities in the open market when business is booming without doing much to moderate a speculative mania. Their action is not likely to take effect until too late, and then may help to push us over the precipice into a crash. And how can anybody know when the brake is to be applied? It is difficult to justify restriction of credit while all the potentialities of production are not yet utilized, and theoretically full production is a point that, in a capitalist system, is never

reached, even at the height of prosperity, as the conservative studies of the Brookings Institution have indicated. Shall the banks take commodity prices as a guide? But commodity prices were remarkably stable during our late prosperity. The great exponents of managed credit at that time were sadly misled, just because this was true. They anticipated no trouble. Stable prices, however, concealed an inflation of industrial profits because technical progress was reducing costs with extreme rapidity. Inflation of profits appeared in a boom in the securities markets, and credit flowed into stock and real-estate speculation.

Supposing the banks had successfully restricted credit for speculation before it was too late. Would they have been able to bring about a fall of commodity prices by restricting commercial credit? But the big producers were not borrowing from the banks; they were financed by their own large profits and were actually lenders rather than borrowers. There were interior distortions in the structure of prices and incomes that were more crucial than any movement of the average price level. Agricultural prices were too low; prices of manufactures were too high. The exhaustive reports of Frederick C. Mills of the National Bureau of Economic Research are illuminating on this point. Such interior maladjustments are not capable of the intricate corrections that are required, by means of the application of any blanket credit policy.

Our experience during the recent depression has abundantly proved that low interest rates and large reserves do not stimulate activity at a time when, for other rea-



sons than mere lack of credit, neither business nor banks see a profit in enlarged production. Rates have remained low and excess bank reserves were built up to a larger point than ever before in our history without any prompt effect. Such influence as is felt is more likely to come if and when business has once revived, and it merely makes more difficult any effort to apply the brakes. Indeed, before business activity had fully revived, banking authorities began to worry about future inflation.

Consider what a long chain of reasoning is involved in the theory of central banking control. Only the major premise of this chain is beyond dispute by informed disputants. That is that when the Reserve Banks buy government securities in the open market, bank reserves are increased, and when they sell these securities, bank reserves are reduced. The next link in the chain is the assumption that when bank reserves are increased, credit is expanded, and vice versa. The third link is that when credit is expanded during a depression, prosperity will follow, and that an unsound speculative boom may be avoided by contracting credit. Here, however, it is more accurate to say that the chain of reasoning splits into two strands, for some hold that prosperity may be maintained indefinitely if the volume of credit is never contracted. Let us examine each of these links separately.

There is no direct and invariable relationship between the amount of bank reserves and the volume of credit outstanding. The amount of reserves does set an *upper limit* to credit, both in law and in practice, but below that

limit there is wide variability. If this were not so, the "reserve ratio" would never vary. During the depression we have seen forcibly demonstrated the fact that banks may pile up enormous excess reserves without any expansion of credit. During the boom we experienced efforts by the Reserve Banks to restrict credit for speculation, without much success. So many other powerful forces are at work that the mere open-market policy of the banks is tardy in effect and may be totally inadequate—except in the rare case when the absolute limit of credit expansion on the basis of a given volume of reserves may be reached. Such an instance has not occurred within a decade.

Belief that by controlling the volume of credit you can stabilize the price level and perpetuate prosperity is a prescription of one of those single-shot panaceas that overlook everything else in the system. To give all the answers to this position, it would be necessary to write a full treatise on economics. But we may summarize some of the more obvious objections. The proposition confuses cause and effect by assuming that the supply of credit by the banks, rather than the demand for it by business or speculators, is the initiating factor. It overlooks the importance of the relationship between specific groups of prices, or between prices and costs, which may, regardless of what happens to the general "price level," either retard business activity or stimulate an artificial and impermanent boom. For instance, there may develop, as there has developed at various times during the past few years, a disparity between agricultural and industrial prices, or between prices of capital goods and

prices of consumers' goods, or between costs of building and rents, or between industrial profits and wages. The prescription overlooks the difficulty of defining the "price level." Is it an average of commodity prices at wholesale? Or should it include prices of stocks? Or of stocks and bonds? Or is it some average of retail prices that can be called the cost of living? Or should it include wages and salaries? Or should it be a combination of all these factors?

The theory ignores the distinct possibility that at certain times credit ought to be restricted in some directions while being expanded in others. (As in 1928, when it looked as if there ought to be a tightening of credit for stock speculation, without any tightening of loans for commercial purposes, or in 1926-27, when the building boom ought to have been checked without checking industrial production.) The very idea of a stable price level is contrary to the principle that real wages ought to increase as the productivity of industry grows, and that the only feasible way to accomplish this end is by a reduction of the prices of those many articles that can be produced more cheaply because of greater efficiency in their manufacture. When there is a general and rapid gain in efficiency, a stable price level may really be a concealed inflation. Most important of all, the theory overlooks the fact that in an advanced and dynamic capitalist system, disproportions are bound to develop that can be corrected only by liquidation, and that to attempt to prevent this liquidation by an injection of credit is like giving a stimulant to a patient suffering from organic disease. It may keep him active for the

moment, but it merely postpones the necessity for a more fundamental correction.

At this point, the possible stimulative effect of governmental expenditures enters the argument. If private business will not or cannot borrow and spend in a depression, government can. Advance planning of public works and spending for relief will make possible a levelling out of the bottom of the curve. There is some validity in this contention, but not much. Ordinary federal public works make up a very small part of the normal construction of the country; local and state governments have such limited taxation resources that their borrowing power is largely cut off during a severe slump. Add them both together, and still you have only a light counterweight to balance against the decline of private construction, to say nothing of the decline of business and employment as a whole. It is contended that even a small increase in public spending will "prime the pump," since it will be multiplied in its effect on employment when money is spent for materials and when wages of construction workers go back through distributors to manufacturers and suppliers of raw materials. Thus stimulated, private business will begin to spiral upward under its own power. But it is far from established that the only thing private business needs is a little encouragement. If there is something the matter with the pump, all you get out of it may be the priming water you put in.

We are thus reduced to the necessity of government spending large enough to make up for the decline of private enterprise. But it is almost impossible for the

government to spend that much; and in the nature of things it cannot do it without competing with private enterprise and without borrowing so much money that the confidence of the financial markets and investors is shaken even more than it would be shaken by the other circumstances of depression.

Another favorite suggestion for stabilization is changing the gold content of the dollar and controlling foreign exchange.

Precisely by what mechanism does a change in the monetary price of gold affect prices of commodities? The most direct effect is upon those things sold in foreign trade, through the shift in the exchange values of currencies. If, for instance, the pound sterling and the dollar are both linked to gold at such values that a pound is worth five dollars, and then the gold value of the dollar is cut in half without any change in the value of the pound, the pound will become worth ten dollars. The immediate result is that people who have pounds can buy twice as many American goods for their money, while people who have dollars will have to pay twice as much for British goods as before. If then, British demand for American goods increases because of the lower price at which they can be bought in pounds, the tendency will be for those goods exported to England to rise in dollar prices in this country. Likewise, if American demand for British goods does not decrease, those goods will cost more in this country than before.

These effects operate initially only upon exported and imported goods; they are likely to be slow and uncertain in their influence upon prices in general. They are

much less important, for instance, in the case of a country like the United States, in which the percentage of foreign trade is small, than in the case of a country like Great Britain or Sweden, in which it is large. Another point of importance is that they do not enlarge world trade or prosperity as a whole; they merely give a competitive advantage in exports to the devaluating nation. This may lead to a competition in devaluation; if everybody devalues, and by the same percentage, the situation is the same as before the devaluation.

Internally, the effect of devaluation is much more remote. Under modern banking and monetary systems, gold is used only for bank reserves. Devaluation merely increases the possible amount of money and credit that *may* be issued against a given amount of gold. But the extra money and credit are not necessarily issued; that depends upon the demand for them by industry and government, and upon banking policy. Reserves in the United States have been ample all through the depression; they did not limit credit before devaluation. Therefore devaluation has not yet had any direct effect on prices through the internal route.

Our devaluation can best be defended, not as a positive measure, but as a defense against foreign deflationary influences in view of the expansionist credit and spending policy of the administration.

From these facts it is obvious that changes in gold value of the dollar cannot alone stabilize prices.

And how about security through social insurance, concerning which we have heard so much lately? It is sufficient to point out the economic axiom that no financial

device, no saving of funds in one period and spending of them in another, can provide plenty for everyone unless the physical goods required are actually produced and distributed. Economists have frequently made the point that in spite of all the talk about transferring the costs of a war to future generations by borrowing, the generation that fights the war bears all its real costs, because it produces all the goods that are used in the war and endures all the waste and suffering incident to consuming human energy for destructive purposes. Future generations cannot make the food or the airplanes or T.N.T. that a war generation needs. Likewise the generation that suffers a depression bears its total real cost; no more goods can be then consumed than are then existent and forthcoming. Unless the accumulation of financial reserves during prosperity and their spending in depression actually induces a full and steady production of goods, nothing like real security can be provided by unemployment insurance. Various kinds of social legislation may mitigate the effect of the basic insecurity of our system, but they do so only to a slight extent as long as the actual production of goods is not sufficient, is not steady, and is not equitably distributed. Unemployment relief derived, not from accumulated funds but from government borrowing may somewhat increase the total of goods produced, but scarcely enough to eliminate want and suffering.

The same truth applies to minimum wages and maximum hours. Our experience with the N.R.A. is illuminating on this point. As a recovery measure, the main purpose of the N.R.A. was conceived to be to

increase the purchasing power of labor by higher wages and shorter hours. This, it was thought, would increase purchases of goods and so lead to greater production and employment. By its business sponsors, the N.R.A. was also valued as a measure to control "cutthroat competition," so that prices might be raised and profits restored on existing volume of business. There lurked an inconsistency between these purposes, since the purchasing power of labor could not grow if, with every increase of wages, prices were also increased; and production and employment could not be enlarged if output were restricted in the interest of profit. There was also an inconsistency between the tendency of the N.R.A. to raise prices of industrial products and the effort of the A.A.A. to narrow the spread between prices of crops and industrial prices.

Between June-July, 1933, and January-February, 1935—a period that includes the operation of most of the codes—the number of wage-earners employed increased 16 percent and earnings per wage-earner increased 16 percent, thus making total wage disbursement 35 percent larger. (Real earnings per worker employed increased only about 3 percent, since the cost of living rose.) The physical volume of industrial production, however, decreased 5 percent. Employment measured in man-hours likewise declined by 4 percent. Though more persons were employed, their hours of work were shorter by 17 percent. The growth in employment was thus brought about solely by the cut in hours, not by any expansion of industrial production.

Selling prices of industrial goods increased in this period



17 percent (on top of a 9-percent increase between January and June). Labor cost per unit of output increased 42 percent. During the January-June period it had dropped 19 percent; thus the net increase, January, 1933, to January, 1935, was only 15 percent, as compared with a rise in selling prices for the same period of 24 percent.

It is obvious that while the N.R.A. did bring about more employment, shorter hours and higher pay, it did not operate to increase production.

Conservatives assert that the failure of the N.R.A. to increase production and bring a more nearly adequate growth of employment was due to the rise in labor costs. Labor argues that the failure arose from the increase of selling prices and the restrictions of production embodied, directly or indirectly, in the codes. No conclusive proof of either position exists, since the N.R.A. was sadly lacking in accounting data, which would have shown profits and profit margins. Profits might have been possible without increasing prices, if output had been enlarged. The N.R.A.'s failure to accumulate and intelligently interpret such data was not the least of its faults.

Whatever the fault may have been, the conclusion is inescapable that control of industrial wages and hours without control of prices and production in the public interest—that is, in the interest of expanding production—cannot be expected to solve the difficulty. But if government controls prices and production as well as wages and hours it goes beyond the boundaries of the theory of a compensated capitalism. It takes over powers that are of the essence of private enterprise. In any case

fixing of minimum wages and maximum hours can scarcely assure the worker more than an insufficient pittance, and they mean little as long as there is not enough work offered to those seeking it. Abundant production is required so that there shall be a chance for millions to earn any wages at all, or to work even as many hours as the maximum provided.

A still more fundamental observation on this program is that a government that does this much is likely to be forced by the power of private enterprise to do other things that are positive barriers to the production of steady abundance. At least, this has been the recent experience both of the United States and of numerous other nations, particularly the fascist ones. Interferences with international trade are strengthened in the interest of profit-making producers. Cartels and other monopolistic organizations are given scope for control over prices and production. They use this control to restrict output, because, although not enough is made to supply real needs, too much is produced to be sold under the existing distortions of prices, costs and income. This, in the United States, has been the principal result of the N.R.A. Other countries did not need N.R.A.'s because they had previously made less attempt to check monopoly by legal means. The N.R.A. has been roughly paralleled, however, by compulsory cartellization in Germany and by the corporative state in Italy.

Still another approach to the problem is that outlined by recent studies of the Brookings Institution—"America's Capacity to Produce," "America's Capacity to Consume," "The Formation of Capital," and "Income and

Economic Progress." These reports take cognizance of many of the economic facts we have discussed. They conclude that this country had the capacity to produce more than it did, even at the 1929 height of prosperity. They assert, however, that this is not "over capacity," in the sense that people did not want or could not use all that could be made. Quite the contrary; our average level of living is so low, even in the best times, that there is an immense potential demand for additional products, which could be converted into an effective demand if people only had enough income to buy them at the prices set. The principal fault, these studies indicate, is in the maldistribution of income, which not only limits demand, but has a great deal to do with the cycle of boom and depression. How are the masses to be given the necessary purchasing power? Higher wages, the Brookings Institution believes, are impracticable as a general remedy—for much the same reasons as are contained in our brief outline of the outcome of the N.R.A. Lower prices, without reduction of wages, leading to larger production, these studies conclude, are the way to an economy of abundance. If prices were only reduced quickly enough and drastically enough, consumption of goods would increase and remain large, depressions would be avoided, and the full capacity of our resources, natural and technical, could be continuously utilized.

So far, the broad outline of these studies coincides with the present reasoning. But the means of effectuating the remedy proposed do not seem to have been carefully examined, as yet, by the Brookings Institution. The

inference commonly drawn from these studies is that a low-price policy is one that can and will be followed by capitalism as at present organized. In some cases the removal of monopolistic restrictions will bring about the desired end. Where prices are privately administered, all one has to do is to convince those doing the administering that they ought to set prices as low as possible. If they do, they will sell more goods and hence will make more profit. Thus social good miraculously coincides with private interest—if only the private interest be sufficiently well informed.

In some cases it may be so, but not in all, and certainly not in some of the most important. In the first place, we have to cross out all except mass-production industries, in which increased sales really may lower costs appreciably. A barber may sell more shaves and haircuts a day by reducing his price, but each shave and haircut takes as much time as before, and there soon comes a point where he has no more time. If his working time is anywhere nearly occupied, his interest lies more in higher prices than in more customers. Similar conditions exist in industries where big machinery and automatic processes are of relatively little importance. In the second place, the possibility of selling more goods by reducing prices depends upon what the economists call the elasticity of demand. This varies greatly from industry to industry and from time to time. The manufacturers of steel rails, for instance, do not believe they could sell many more rails by reducing the price, especially in a depression period. The demand for rails for replacement purposes has an upper limit, depend-

ing on the miles of track in use. The demand for rails for expansion of railroads depends on the new construction plans of the companies—which recently have been almost zero, because of bus, truck and airplane competition. Neither of these factors would be much affected by the price of rails. The same sort of thing is true of many other industries engaged in supplying capital goods or raw materials, or even consumers' goods of older varieties, the markets for which do not seem to be capable of much expansion at any given moment. Hence it is often more profitable to keep prices high than to lower them.

Does not this contradict our main thesis, that many more goods could be sold if prices were lower? No, because in saying that we are talking about a large array of prices, of prices in general. The limit of demand for any given product may appear to be fixed at any given time; yet it might be much larger if we had a different price situation in general. Let us go back to our rails. If railroads lower their own rates, their traffic increases and their tracks need more replacement. Sufficiently lower rates might even stimulate expansion of trackage. And if not only rails, but cement and other building materials, locomotives and cars were all reduced in price, lower rates would be facilitated and the expansion of railroads encouraged. This would be particularly true if price reductions were made generally throughout industry, and as a consequence all kinds of business were increasing. But the trouble is that a general program of this kind cannot be brought about by one company or industry acting alone. It has no reason to suppose that if it starts

the procession, others will follow, or will follow quickly enough. It might be bankrupted before the demand for its particular product increased sufficiently to compensate for the reduction in price. Furthermore, if all other industries did follow the low-price, expansionist policy, a particular industry could often make more by not following the procession, by riding on the wave of prosperity without reducing its prices, or without reducing them as much as it could.

There are the further difficulties, mentioned in Chapter 9, hampering the flexibility of prices—difficulties such as rigid rents, interest rates and other fixed charges.

The experience of the business world throws doubt on the possibility of a deliberate, general policy of price reduction. While certain industries have from time to time enlarged their markets by reducing prices, the ordinary expectation is that orders and production will increase in a period of rising prices, whereas in a period of falling prices business will decline. A large group of economists believes that one of the best possible stimuli to production is a gently rising price level, because it holds out to the profit-making producer the incentive that his goods will be worth more when he sells them than when he buys the materials. These economists, however shortsighted they may be as to the ultimate effect of such a stimulus, are undoubtedly shrewd observers of business psychology.

We are led to the conclusion, if we grant the accuracy of the Brookings Institution diagnosis, that not enough industrial leaders will voluntarily accept the remedy to make it work. Again we have a situation in which in-

dividuals or groups under the profit system will not adopt the policies necessary for the health of the system itself, because it is not to the immediate advantage of these individuals or groups to do so. Freedom for their individual decisions will have to give way to some kind of social direction if the whole economy is to behave in such a way that the majority can have security and the liberty that it makes possible.

As long as capitalism is dominant, state interference cannot be confined to measures intended to benefit the victims of capitalism. While political democracy exists, the forces of capital will not of course have complete sway; they may be checked at numerous points. But it is naïve in the extreme to expect that they will be forced completely out of power unless they are supplanted by another system of production. At the very least they have the ultimate right of economic veto, because they decide what shall be invested and how much shall be produced. The most radical government, as long as private business and finance retains this right, must conciliate and compromise in order to achieve its reforms without wrecking the prospect of abundance altogether. And the points at which it must concede are likely to be crucial. No matter how many modifications of capitalism may be made in the direction of a compensated economy—and many are certain to be made—these modifications are peripheral; they do not deal with the heart of the system, which causes its instability and leads to insecurity for all.

## II. PLANNED ABUNDANCE

It may appear that the economic discussions of the two previous chapters have led us away from the subject of liberty. But really this is not so. If we grant the main thesis of this essay—that liberty is indefinable except in the framework of a society that has a common purpose, and that the purpose must be expressed in feasible measures in order that it may be decided *whose* liberty to do *what* has the right of way in any given situation—then it is of the utmost importance to know whether the desire of the majority of the people for the kind of liberty that goes with security and abundance can really be embodied either in a system of laissez-faire or in a system of regulated capitalism. And if, as our inquiry has led us to conclude, it can be embodied in neither, we must go on to ask whether it can be embodied in another system, and if so, what kind of liberty would be appropriate to that system.

The only other general type of possibility besides automatically regulated capitalism and state-regulated capitalism is collectivism or socialism of some kind. Such a system would acknowledge, as the leading social purpose, production for abundance. It would seek to maximize material and cultural opportunities, not for a limited class, but for all. It would organize the national life about this purpose, plan for it and execute the plans.



That necessarily implies socializing the decisions about prices, wages, production, investment, etc., instead of leaving these decisions in the hands of those who represent private owners of productive resources, or to the play of chance and circumstance.

It is frequently objected that the advocacy of a system like this rests upon inadequate scientific grounds. To show that capitalism as we have known it does not work well is not to prove that socialism would work any better. The world, it is said, has no experience of a sufficiently relevant experiment in socialism by which to judge. In the Soviet Union alone has anything like a completely collectivized system been established. Conflict of views between those who praise that regime and those who condemn it does not prove very much. All judicious students agree, whether their attitude is sympathetic or the reverse, that the basic conditions and the historical origins of society in Soviet Russia are so different from those of a nation like the United States that no simple parallel can be drawn. The Russian Empire changed in a few years from an absolute monarchy, without literacy, without much modern industrial development, with a mixture of peoples largely Asiatic in tradition and steeped in superstition, to a society socialist, at least in aspiration. The process of change was marked by war, revolution, civil war, foreign intervention. To the sympathetic observer, these conditions account for many of the failures of the new society, and add to the luster of its achievements. To the unsympathetic commentator, they indicate that socialism is alien to and unattainable by more highly developed nations, or is merely

a primitive, passing and ineffectual substitute for western democratic society.

It must be admitted that if social science, like chemistry or medical research, must depend on controlled experiments to support valid conclusions, then it is impossible to prove beyond a shadow of doubt that socialism would do better than capitalism in any given country. By the same token it is impossible to prove that capitalism is better than socialism, or indeed to prove anything at all about broad political and economic questions. But inability to achieve scientific certitude of the sort demanded by chemistry or biology does not remove the social problem, and it does not halt social changes. It is childish to suppose that people will wait until college professors have assured them what is the best way to run their affairs before they make any change, that they will indefinitely retain an old system without modification as long as economists with unspotted scientific consciences assure them that there is no absolute proof that change would improve their situation.

There are therefore two excellent reasons for investigating as well as we can what the possibilities of the socialist alternative are, even though we are admittedly in a realm of guesswork. One is that since society will be changed in some way in any case, it is better to seek what guidance we can, even from guesses, if these guesses are as well informed and as carefully checked as may be, than it is to strike out blindly or to take the prescription of some quack or irresponsible adventurer. The other is that whatever may be the intellectual processes of the relatively small number of persons who devote connected

thought to the problem, the world appears to be moving, with much pain, loss and confusion, but nevertheless inexorably, to greater social integration of economic institutions. It is therefore well, not only for the advocates of such a change, but also for those who remain in a scientific ivory tower, and even for those who fear the prospect, to inquire what sort of thing the new society is likely to be, and what sort of liberty may be found under it.

First, whatever the actual outcome may be, is there at least any possibility that a system aimed at planned abundance could raise the level of life of the majority of the people? We need not labor the trite argument that taking money from the rich to give to the poor would not go far in this direction; this is not the principal aim of any intelligent collectivist, for the simple reason that while some persons do have extravagantly large incomes, there are not enough of them in comparison with the numbers of those in moderate circumstances so that simple redistribution of their wealth would add greatly to the resources of the poor. What we really need is a materially larger product, better balanced in relation to social needs, and growing steadily instead of suffering spasmodic restriction. The first question to answer, therefore, is whether our national resources, technical skill and labor power would permit a larger and a growing national product.

Common sense gives an affirmative answer to this question, as long as there are wasted or inefficiently utilized stores of coal, water power, minerals and land, idle factories, farms and mines, and idle men. All these

things we obviously do have—and we have them not only in depression but even in the peaks of prosperity. Elaborate attempts have been made to answer the question in greater detail. None of these attempts is wholly satisfactory, for reasons that will be explained, but it is significant that they all come to the conclusion that we could produce much more than we do, if we went about it in a different way.

The recent studies of the Brookings Institution took as their hypothesis the most conservative possible assumption that would allow for any change in the situation at all. Obviously, if we assume no change in our ways of doing things, what we produce at any given time is the most that can be produced at that time. The Brookings study inquired merely what the existing industrial plants and labor forces could have produced in 1929 if all workers and factories had been employed. It assumed no reorganization of industry, no change in the habits and customs of people, no alteration in the conditions of work such as hours per day or week, no additional shifts, no elimination of slack seasons. On this basis, it concluded that a 25 percent larger national output of goods could have been made in 1929—the highest point of production we have ever reached—than actually was made. Again to be conservative, the estimate of unused capacity was reduced from 20 percent to 15 percent, and on this basis it was calculated that the national income in 1929 could have been \$15,000,000,000 more than it was—enough to double the incomes of the 14,500,000 families at the lower end of the income scale, or to add \$545 to the income of every family of two or more persons.

But such a study throws relatively little light on what a planned system actually would do, because many changes ignored in its hypothesis would certainly be required. If every existing factory had merely been utilized to capacity, we should have had more of some things than we needed and much less of others. For instance, only 45 percent of the capacity of locomotive plants was used in 1929, while 100 percent of capacity of steel plants was employed. If more than twice as many locomotives had been made, we might have had no good use for them. And anyway we could not have built them without adding to steel capacity. Only 53 percent of our flour-milling capacity was in use. Could the population have eaten so much more bread? On the other hand, there is every reason to believe that more than enough extra clothing or other fabrics would have been wanted to keep busy the 42 percent of textile machinery that was idle.

Enlarge people's incomes, and you change the character of their demands. In particular, you enlarge their demands for intangibles and services of various kinds that are not provided by machinery. How about recreation, barbers, beauty shops, theaters, doctors, teachers? Certainly a materially higher standard of life for everyone would have required far more than mere utilization of the plant capacity that happened to be idle in 1929.

Another study illustrates these points—the National Survey of Potential Product Capacity, a project financed by federal relief funds, and employing various engineers and statisticians under the direction of Mr. Harold Loeb. It assumed a family budget based on an adequate standard of living, and tried to see how well we

were equipped to supply such a budget for everyone. In the words of Mr. Walter Polakoff, it "determined the rate at which our natural resources could be made available for further processing and application, and this meant the arable land and forest as well as mineral resources, fuel and energy sources. Then it proceeded to analyze, step by step, the consecutive stages of processing raw materials. Starting, for instance, with the potential output of iron ore, it inquired into the capacity of blast furnaces, from castings and ingots to rolled and sheet steel, allocating them to automobiles and roofing, railways and kitchen utensils, shoe nails and mosquito screens. It watched at every step for the bottle necks in productive equipment as well as for interchangeability of machinery and products and possible substitutes. Likewise, supplies entering manufacturing processes and capacity of their production have been estimated, allocated and potential need determined. At last the stage of finished consumer goods was reached and at this point the question arose: what is the practical limit of production of consumer goods, provided there is no restriction in purchasing power?"

This study concluded that we could, after readjustment requiring a few years, meet the requirements of a liberal diet such as that prescribed by Messrs. Stiebling and Ward. Nevertheless we were in 1929 short 33,000,000,000 pounds in milk, while we had an excess of 13,500,000,000 pounds of bread and flour products, and an excess of 3,000,000,000 pounds of sugar. So the list runs: we consumed 29,000,000 men's suits; we needed 67,000,000, we could have produced 79,000,000. **We**

lacked capacity in some instances and had too much in others. Such an ambitious study was bound to be sketchy in detail, and is open to many technical criticisms. The point in citing it here is not merely to indicate that we could provide a much higher standard of life than existed even at the height of prosperity, but that in order to do so with any relevance to actual human needs we should have had to have a production program very different from that which existed or which our equipment was prepared to execute.

Still another complication enters the picture. As Dr. A. W. Hinrichs has written in a brief article, "Productive Capacity and Its Significance" in *Plan Age* for January, 1935,

If time be accepted as an element, it will also be desirable to discard the static concept of capacity that dominates both the studies referred to. Because statistical data are only available in retrospect, it is not unreasonable to measure capacity as of some past date. But to assume that standing bricks and mortar, and machines in place in 1929 measured our "capacity to produce" in 1929—or were even directly related to that capacity—is to disregard all real elements of the problem. A demand for an additional 10,000,000 tons of pig iron would not have been satisfied by keeping in blast marginal plants requiring 7 man-hours per ton but by building new furnaces requiring 1 to 1½ man-hours per ton.

Capacity is limited technologically by population, by its acquired skills, by accumulated productive equipment, by natural resources and by technically proved knowledge. In 1929 we had the capacity to produce what was produced in 1929; we may imagine war or rapid inflation transforming the habits of the society to allow of the realization of the static potential. But more important, in 1929 we possessed technical

knowledge which would have enabled us to build new plants by 1933 with a technical capacity  $x_1$ ; by 1935 with a capacity of  $x_2$ ; by 1940 with  $x_3$ . Until technical capacity is projected forward on the basis of knowledge existing in the base period, the capacity of that base has not been fully described. The period of projection should be sufficiently long to allow a full transformation of the society to the most advanced technical base, though the length of such a period is a function of the social institution of saving and capital accumulation.

These considerations lead us to a rough conception of the manner in which planning for abundance would have to be organized. There would be necessary a production program, laid out over a period of time. So much of this, that and the other to be produced next year, so much the year after. The program would have to embrace industry in the conventional sense, public works, governmental activities of all sorts, cultural necessities such as education, recreation, the arts, health, social insurance, the various service occupations. It would have to lay out the allocation and the use of natural resources and power, plants and machinery, labor energy. Credit and capital investment would have to be adjusted to the program, as would foreign trade. Levels of wages and salaries, prices and costs, would have to fit the plan, so that purchasing power would be available in the right places and at the right times to keep the output moving into channels of consumption.

Such an immensely compressed summary may lead to a misapprehension of the type of control required to put the program into effect. It is often assumed that what is here suggested is a board of economic dictators who would



sit down and draw up a hard-and-fast schedule for the work of the people for five or ten years, specifying what must be done by every person in every part of the country every moment of the time, and what the result is to be, down to every bolt and nut, every tennis ball, every camera shot in the movies. Such a task is clearly impossible; to attempt it would be madness; to achieve success in it would be intolerable. A planning system must have a center, it is true, but the impulses for its operation must come from the outlying agencies and individuals. The work of the center is rather one of co-ordination and provision of continuity; responsibility for execution, after the co-ordinating process has taken place, must again be decentralized. Planning decisions would arise, not out of the wills of a few planners, but out of an arrangement of the existing circumstances and the desires of many groups of people; they would be statistical approximations rather than engineering blue prints. Programs for the future would be rough predictions rather than military orders. There would be continual shifts and changes both in planning and in execution. Disparities and failures would occur; unexpected results would have to be dealt with. It is not argued that a planned system would be perfect order as opposed to the present economic chaos; but it might avoid many of the grosser, more nonsensical and more injurious disorders that now occur.

Each factory, school, theater and hospital would originate its own production plan, based on its equipment, its desire for improvement or enlargement, its available labor supply, its estimate of cost, its needs of credit and finance. These plans would be accumulated

both regionally and by industrial or occupational units covering the whole country, and would be co-ordinated into separate local, regional and industrial plans. Labor and professional groups would express their desires about wages and salaries, hours and working conditions. Ultimate consumers' wants would be expressed either directly or by statistical estimates based on the experience of the bodies engaged in distributing consumers' goods. The task of the central planning agency would be to fit these various plans and demands together as well as possible, to revise them according to existing and future possibilities. The central planning agency would not be a board of dictators, but a great statistical and accounting organization, out of which the larger problems would emerge for analysis and treatment. It would have known, for instance, in 1929, that agricultural expansion should not take the form of more wheat and flour or more sugar, but of more milk, meat and fresh vegetables. It would not have sanctioned a plan to double the production of locomotives while the existing steel mills were 100 per cent busy and the railroads did not require the locomotives. But it would have encouraged production of low-cost, adequate housing. And it would have known enough to advise the location of this housing where population growth was likely to occur most rapidly, according to industrial plans. After the central analysis and the formation of a feasible plan, responsible executives, acting for the socialized community, would attempt to execute it.

So far we have been thinking merely of the mechanism of planning. Equally important, however, is the nature of the political forces that would determine its direction

and influence its concrete objectives. It is possible to plan without aiming for a higher general standard of life or without abolishing private profit in industry or gross inequalities in income. This is what the United States and other nations did during the Great War. This is what Fascist Italy and Nazi Germany are now doing. Everything, in such a case, is adjusted to the objective of building up and equipping a great military force and preparing for success in war. At least a measure of dictatorship, the abatement of democratic processes of all sorts, are essential in such planning. But planning a more abundant life for the people is a different matter altogether. In that case, the power to give a general direction to economic affairs must remain in the hands of the masses; they must control government, and government must manage industry in their interest. This does not mean that a national referendum would have to be taken on every planning decision; pure democracy of that type is unworkable in great nations of the modern world, no matter what their economic system. But it does mean that the people, through appropriate representatives in political bodies, unions, professional associations and the like would have to exert a continuous influence on the planning process.

Here arises our orthodox theoretical economist with the declaration that by this statement we have betrayed the weakness of planning. Political interference of any kind, he will say, is fatal to economic efficiency. He will admit that there is much interference in present capitalist states, but he will argue that this is what makes capitalism work badly. Without stopping to reply, as we might

truly, that most of this interference is not strictly political in origin, but arises from the pressure on politicians by profit interests, or indeed from organization of economic power itself, let us see in somewhat more detail what the economist's argument is.

This argument is based on price-and-value theory. People's wants are arranged in a sort of hierarchy. They will pay a lot for the things they want most, if they have to. And so on down the scale, until you come to things that they would rather go without than pay for. Some things cost more to produce than others. If, for anything people want, the cost is even a little less than the price they are willing to pay, it will probably be offered for sale under a competitive capitalistic system. But more attention will be devoted to making and selling those things that people want so much that the price is further above the cost. This process reaches back through retail trade, to wholesale trade, to manufacture and mining, to the investment of capital. The relative prices that it determines, determine in their turn relative costs and profits, having due reference to the existing supply of raw materials and skill. Relative profits determine relative production. Thus production is adjusted to people's wants. Scarce things in demand are rationed by means of high prices; abundant things are widely distributed; there is a motive to make scarce things more abundant. Prices and costs are the signposts that tell individuals what to do in order to make this adjustment. It is a great, co-ordinated system, that works and changes without anybody consciously planning (except for himself).

But, says the economist, the minute you start to plan, you make arbitrary decisions about prices and wages and production and capital investment that knock down all these value signposts. Nobody knows what relative values are any more; costs become unreal; you devote capital and labor to processes that, if you only knew, are socially less efficient, and you fail to satisfy popular demands as well as you might. In short, you land in a mess.

The real reply to this argument is that many of the most important demands in a modern society are social or cultural in nature, rather than demands for material things that can be satisfied commercially. It is difficult for the retail purchaser to go out and buy such things as security against unemployment, leisure, social insurance, confidence and hope for the future, art galleries, education, good theater and music, regional and city planning, national defense, parks, conservation of forests, soil and mineral resources. Such wants have to be socially satisfied, if they are to be satisfied at all. Therefore it is of the utmost importance that society be organized to provide an effective demand for them, and it is also of the utmost importance that the political control of society be in the hands of those concerned with the ultimate good of all, rather than of those who subordinate everything else to private gain.

As far as the retail market is concerned, the mechanisms of demand and supply, working through prices and costs, could still be used to a large extent as signposts to the planning of production. People could go into stores, choose what they wanted and pay for it. The prices could be fixed (*a*) with relation to costs (*b*) with relation to

demand. High prices and large profit margins on any article would be a sign to socialized industry that more of it was demanded and hence should be manufactured. But, with advance planning based on good marketing statistics, high price due to shortage of any particular article should be rarer than at present.

These, then, are the essentials of a system of planning for abundance—a planning nerve-center for co-ordination of wishes; a system of industry making its decisions on production, prices and wages, not in accordance with the requirements of private profit but in accordance with planning schedules; a control of the state by the masses of the people so that their requirements would determine the major objectives of the system.

## 12. SOCIALIZED LIBERTY

WE have seen that if liberty is to mean anything—if, indeed, it is not to destroy itself and carry down with it equality, democracy, reason and persuasion—it must be organized about specific purposes. It must be incorporated in a social order, designed to serve these purposes. The citizens of this order, whatever may be their variety of personality and aspiration, must, by and large, share the purposes. The purposes must, finally, be feasible ones under the prevalent circumstances and the existing human capacities.

A brief historical survey indicated that the struggle for the foundation of the American republic was in fact a striving for specific purposes by the dominant classes of the time. A substantial amount of liberty could and did exist in its early days, because these purposes could be realized by enough of the citizens. Eventually, however, a critical conflict of liberties developed between the beneficiaries of the plantation slave system and those of modern industry. The decision of this conflict cleared the way for the growth and dominance of the system of liberty for business enterprise. Within this new system, again, a critical conflict of liberties has been developing. On the one hand is liberty to amass wealth and power through private ownership or management of industry, trade and finance. On the other is liberty of the wage-earners and

recipients of small salaries, the farmers, the professional classes, to have jobs and security, to express themselves through organization and political control of government, to seek a higher standard of material well-being and culture. We have concluded that the two sorts of liberty are incompatible.

Finally we have inquired what the chances are that the kind of purposes now sought by the majority could be achieved, if the leading purposes sought by private business enterprise, and the power of those who express them, could be eliminated. And we have tried to sketch the sort of arrangements that would be required in an effort to serve the majority purposes, and to give real meaning, appropriate to our new conditions, to the aspirations for liberty and equality. Call this new order socialism, if you will; it undoubtedly is socialism, because it substitutes social direction of our economy for the power of private wealth. But remember, when this word is employed, that it is used to describe, not a vague and illusory concept arising from an alien theory, but an effort to realize American aspirations in a way appropriate to the needs of today and the existing means of satisfying them. Another question remains to be asked. Assume the existence of such a system. Assume that it were operating with a fair amount of success—not with the perfection of a Utopian dream world, but with as much success as could be expected of any human institution. What sort of liberty would exist? What would socialized liberty be like?

Defenders of capitalism customarily try to frighten us away from this new system by talking as if it must deprive us of liberty altogether. One of the most plausible



of these defenders is Walter Lippmann, who in his little book on "The Method of Freedom" has written:

The military pattern is the basic pattern of any directed social order. If a multitude of people is to act according to a definite plan, it must be militarized. That is to say: centralized decision must replace distributed decisions. There must be a hierarchy of officers, or, if you like, officials, and a rank and file of privates. The officers must command. The privates must obey. In place of argument, persuasion, bargaining, and compromise among individuals, there must be orders and the disciplined acceptance of those orders. It is inconceivable that among multitudes the free choice of individuals could be brought into agreement upon a comprehensive plan, or that a multitude of individuals who were free to co-operate or to stand apart could voluntarily carry out a national plan. If the social order is to be planned, it has to be directed as it is in war time, and the liberty of private transactions has to give way to regimentation.

Mr. Lippmann further contends that under this system freedom of discussion cannot be allowed, but on the contrary there must be official propaganda, extending to an absolute state monopoly of news, education and culture. He insists that there can be no freedom to choose an occupation, and no freedom of consumers to choose what they will buy. We shall, in effect, all be privates in an army.

If there is any validity in the previous chapter, it must be concluded that Mr. Lippmann has not devoted much thought to the necessary characteristics of a socially planned system. Planning of so complex an economy as ours could not possibly work if every command originated with a military authority at the top and came down to

125,000,000 privates at the bottom. The great number of decisions would and must be departmentalized and decentralized. What the central planning body would do would be rather to investigate, to put in order and make clear the fundamental conditions governing these decisions, if they were not to conflict with the leading purposes of the nation and with one another. The leading purposes, in turn, would have to depend on the democratic consent of the people. And the decisions would have to be elaborated by functional bodies in industry, agriculture and the professions, in which democratic processes played a large part. There would be room for plenty of argument, persuasion, bargaining and compromise; indeed, such activities would be indispensable. In the end, individual responsibility and achievement would condition the efficiency of the whole order. The practical question may rather be whether there are enough people with sufficiently high qualifications for intelligent decision and with sufficient pride of achievement and sense of responsibility to operate a system which would depend much less than the present one on military orders, enforced by fear of discharge in a world where jobs are hard to get.

In making these statements Mr. Lippmann is, probably without realizing it, contrasting life under the new order, not with the present life of the unemployed or even the employed industrial worker, or with that of the share cropper or tenant farmer or farm owner who is up to his ears in debt for taxes and mortgages, or even with the rank-and-file engineer, teacher, chemist, librarian or metallurgist. He is thinking rather of the capitalist or the high executive who now does exercise some important

privilege of decision in industrial life. And he is thinking of the minority of persons with secure leisure and means to choose among a wide variety of occupations and satisfactions. He is thinking of those who now control the policy of newspapers and radio, and who have virtually unrestricted liberty for their own kind of propaganda.

There is no doubt whatever that under a genuine socialist regime there would be no one exercising the characteristic liberty of the owners of capital and the chief beneficiaries and advocates of capitalist culture. There would no longer be propertied persons acting in the interest of their own profit, choosing where they would invest their money, or making irresponsible decisions concerning the expansion or restriction of production, the hiring and firing of workers, the wages paid or the prices charged. It would be just as hazardous for an editorial writer or a newspaper columnist or a school teacher publicly to advocate a return to capitalism as it now is for persons in these positions to advocate an advance to socialism. The national purpose being changed, the climate of opinion would be changed with it, and it always involves risk to challenge the dominant bias. All this naturally looks like intolerable regimentation to those who believe they would be adversely affected by it.

But the chronically unemployed would undoubtedly have freedom to earn their living instead of being obliged to choose between starvation or charity, even supposing sufficient charity to be available. The reduction or abolition of unemployment would perhaps confer even a greater access of freedom on those who now have jobs than on those without them. The workers' choice among occupa-

tions would be broader than it is now, because that choice is always limited by the number and character of the jobs available, and the more jobs there are open, the wider the field. Every employee knows by experience the difference in his freedom of choice that is made by the difference between abundance and scarcity of employment opportunity. He also knows the gain in his independence while on the job, if he can readily get another one as good.

But would not a socialist system utilize forced labor in order to fill the essential jobs when there was a labor shortage? Suppose everyone chose to do the more pleasant things, leaving the more arduous toil to others? This question ignores industry's experience with employment policies. Forced labor is never efficient, and the higher the development of technique, the less efficient it is. The only good ways to administer the labor supply would shortly be found to be, if they were not already known to be, fitting together the requirements of the job and the aptitudes of the individual, differentials of wages to attract workers where they are most needed, and improvement of working conditions and industrial technique with the aim of reducing the unpleasant features of the less desirable jobs, if indeed these jobs were not altogether abolished by technical advance. Our limited experience with labor shortage in the past has already indicated large possibilities in these directions.

In the actual conditions of his daily work the employee would obviously be more free than he is in a regime which places the interest of the employer and property-owner first. The executive of a privately owned plant or industry is an absolute monarch, so far as that plant or industry

is concerned. Though he may be somewhat checked by social legislation covering things like safety or hours of work, he makes the rules and enforces them, he can discharge or promote with or without cause, he employs his own detectives and police. Orders are to be obeyed, not questioned. There are, in addition to the many petty tyrants of industry, some benevolent rulers. Wherever unions are strongly organized, the autocratic authority of the employer is modified by democratic consent. Even where workers are unorganized, they often mutely protest by going slow or even by sabotage. Nevertheless the legal system gives an authority to the employer which no political dictatorship over a government-owned industry could much increase. On the other hand, socialized industry, based on the acknowledged principle that the economy was being conducted for the benefit of the workers as a whole, would certainly be operated in a different spirit. It could not, of course, be anarchistic and efficient at the same time. All authority of the executive or technician could not be surrendered to local workers' committees. There is a discipline that is inseparable from any industrial order, no matter what the character of its management. But adjustments are always easier to make, and the individual's sense of freedom is always enhanced, when he knows he is working ultimately for himself or his fellows rather than for an outsider and a superior. Give the worker a sense of importance in the scheme of things and you at once give him the most precious liberty of all.

In his leisure, too, the worker would have immensely greater liberty as his working time shortened and his

material reward became greater. In order to understand this, you have only to compare the leisure-liberty of those having an assured and adequate income with that of those who have to count every cent, or those who have to suffer the compulsory leisure of unemployment. Add to more leisure a genuine system of universal medical care and hospitalization, the privilege of educating one's children as far as they are able to go, the opportunity to enjoy the best of modern culture, and you add immensely to substantial liberty.

Engineers, industrial managers and the professional classes generally would also enjoy a greater freedom in their work when it was conditioned by organization about the purpose of providing a more abundant life rather than being restricted as now by the caprices and failures of private enterprise. Nothing is more obvious in an analysis of present society than the frustration suffered by the engineer, the organizer of management and the professional carrier of culture as a result of the conflict between the devising of better methods and the restrictions imposed by business uncertainty and widespread poverty.

Many inventors have seen their creations become the property of employers and be suppressed. Many scientific managers have lost their jobs or been otherwise restricted by business depression. How many teachers have not had to struggle with too large classes on insufficient pay, how many have not been thwarted by the unhealthy social environment, the ignorance of parents, or even the malnutrition, which condition their charges? How many doctors have not been compelled to advise treatment that their patients could not afford, and how many have not

been pinched through inability of patients to pay their bills? Have not many revolted at the endless task of curing the needlessly sick when a higher general state of knowledge and a better environment would have kept the patients well? Though professional people may be frightened by the usual propaganda against socialism or social change, the more intelligent of them could not be frightened by any threat that they would lose liberty if unemployment were abolished and people had more money and were better educated.

How about the freedom of all in their capacity as consumers? Would their choice be regimented? Should we all have to subsist on a plain, inferior, standardized and Puritan fare of goods, such as was thought best for us by the national commissary? There is no such necessity. Choices of consumers are not at present wholly free, partly because most consumers have not enough to spend and must rigorously exclude all but the cheapest necessities, and partly because these choices are influenced by misleading or at the least uninformative advertising rather than real knowledge of quality and comparative values. A certain amount of standardization is not incompatible with useful variety and freedom of choice. We should not suffer if we did not have to choose between hundreds of brands of canned fruits or vegetables whose relative merits we cannot know without laboratory experiments, or if we were not presented with quite so bewildering a variety of unreliable cures for newly invented diseases, or if we were not saddled with the impossible task of knowing whether we were getting our money's worth among the thousands of different suits, shoes, shirts and

radios, furniture or safety razors. The American public is not impoverished because its choice of automobiles is now limited to a few standard makes in each price range, nor is a rather strict planning and control in the manufacture of these cars incompatible with a satisfactory variety in style and color. There is no insuperable technical problem in planning for production of abundance even of luxuries, on the basis of free choice by consumers, when the experience of that choice is capable of being known by marketing statistics. There might of course be varieties of consumers' goods that were wasted because the consumers would not buy them at any price, but such waste could be absorbed in a planned system without creating disastrous dislocations. A general increase of the more desirable consumers' goods would be one of the first aims of a planned system.

But how, it is asked, could we retain democracy if authority to direct all these economic processes were given to the state? The question seems to assume that some democratic agency now decides what should be invested and when, what should be produced, and what should be charged for it. This is a curious inversion indeed. For economic life is the one thing that political democracy does not now control, except by prohibitions or interferences. We should of course have to take away from non-expert politicians the right to levy taxes and tariffs, pay subsidies and pass legislation affecting industry, according to the unplanned and unco-ordinated caprice of the moment; such decisions would have to be delegated to competent agencies acting consistently in pursuit of the general purpose. But at the same time we should



delegate to the same expert agencies, acting upon the ultimate basis of democratic approval, the far more important decisions over output, prices and investment that are now made by members of our economic oligarchy without any democratic checks at all. No doubt substantial modifications of political machinery would be essential under a planned economy, but democracy inheres not in a particular constitutional device, but in genuine control of the state by the majority of the people. We have long ago learned that we cannot measure democracy by the number of questions submitted to popular vote or by the frequency with which people cast a ballot.

The liberties of which we have been thinking are usually overlooked in discussions of this sort. What people fear most from socialism, as a rule, is a restriction of civil liberties. How about equal rights before the law, the right of trial by jury, the protection against unreasonable search and seizure or against confiscation of property without due process of law? How about the right of free exercise of religion? And, particularly, how about freedom of the press and of speech? If the government owns all industry, and all cultural life is dependent on its arrangements, will not every decision be supported by the authority of its police power? Will not opposition too easily be regarded as treasonable? The only safeguard of liberty, according to this view, is a diffusion and counterbalancing of authority. There are two questions here, one having to do with the mechanics of the regime, the other with its psychology.

The first question asks whether it is possible to operate a collectivist system at all without abolition of civil

liberty. The answer is that while an integration of social life may be authoritarian and dictatorial, as it is under fascism or military planning, that is an artificial and imposed unity, and not in the least the sort of thing we are talking about. In a true collectivism, based on widespread consent, and working well enough to offer progressively increasing satisfactions, there would be no more need to abrogate civil liberties than under the existing regime—perhaps not so much. Offenders against the law would be, as at present, subject to courts, and we have a right to hope that the processes of these courts and of penology would be greatly improved. There would be a larger body of private property than at present, in the hands of more persons, and there would be no need to confiscate it—certainly no need to do so without due process. The only kind of property that would be removed from individual private ownership under socialism is productive property—factories, mines, railroads, land (excluding, perhaps, small holdings), distributive establishments, and the like. The very purpose of doing this would be to increase private ownership and security in the enjoyment of personal property of all kinds—from food, clothing and shelter to automobiles, books, works of art, musical instruments, sporting goods—anything that people might want.

Newspapers and magazines would not be owned, it is true, by individual proprietors, and would no longer be free to spread the views of men of wealth. But they would not, for the most part, be owned by the government either. They would be organs of unions, professional associations, co-operatives, farmers' associations and the

like, and their opinions, while they would be conditioned as always by the prevailing mores, need not be regimented or censored.

We already are accustomed to the principle of the separation of church and state, and the non-intervention of churches, as such, with governmental affairs. There is no reason why religious freedom could not continue under these conditions. The nations in which socialist movements have attacked the church are those in which the church was established by law, retained feudal prerogatives and was a powerful instrument of superstition and reaction. When a Russian Bolshevik speaks of church oppression, or of religion as an opiate of the people, he is not thinking of a Congregational or a Methodist minister. Even in the Soviet Union, now that the church has been disestablished, religious worship is permitted to all who desire it; the only restrictions are that the congregations must pay the expenses of the churches and that the education of the young must be secular.

The second, or psychological, question has to do with the dangers of extended governmental authority. Admitting that denial of liberties would not be essential to the system, would it not still be exercised by a host of bureaucratic tyrants who liked to show their authority? This danger always exists where power must be delegated. It is particularly a danger where the function of government is to forbid or to regulate; we see it in operation most clearly in the actions of the police, and in our whole penal system. Give men absolute power over others, and abuses are certain to occur. But the extension of governmental activity which socialism requires is not an ex-

tension of its police functions but of its administrative functions. There is no more danger of bureaucratic interference with civil liberty in the operation of the post offices or of the Interstate Commerce Commission or of the Department of Agriculture than there is on the Pennsylvania Railroad or in the United States Steel Corporation—probably not so much. In activities of this kind, private industries now act like government in many respects, and government, if it took them over, would assume the functional aspects of private industry. And, under socialism, there would be more check by subordinates upon the arbitrary actions of industrial executives than at present.

It must be remembered, too, that in a free collectivist system government would not own or direct every activity. There would be a large place for consumers' and producers' co-operatives, for unions, for professional associations, for voluntary organization of many kinds. Thus a diversity and balance would be maintained.

It is often objected that many of the liberties that have been described do not now exist in the one socialist state of which the world has experience—the Soviet Union. Are not the goods and services available to the ordinary citizen still meager there? Are not civil liberties suppressed? Is there not a dictatorship resting on force and terror? It is needless to say that these evils are often exaggerated by the opponents of the Soviet regime; though the former ruling classes have suffered, the workers in Russia undoubtedly have more abundance and greater freedom than they did under the Tsars or when the revolution occurred. Nevertheless such evils have existed.

What people forget, however, is that the special circumstances of each country and its people must determine the kind of regime it can have, even after a change to socialism. Russia never before had the equipment, the trained engineers or the skilled workers to produce abundance. What we already have and are unable fully to employ, she has been compelled to build within a few years at tremendous sacrifice. Russia, furthermore, had never enjoyed experience with democratic institutions and civil liberties; she has not had until recently even a literate population. There is little reason to expect that the United States, if it adopted a regime of social planning, would have to suffer all the same disadvantages and endure the same privations, material and psychic.

Many of the characteristics of socialism that we have outlined do, as a matter of fact, now exist in the Soviet Union, contrary to the prevailing belief in other countries. This is not the place to enter upon this endless debate, but any reader of Sidney and Beatrice Webb's scholarly study of "Soviet Communism" can cite their description of the wide extent of co-operative and voluntary organization, the co-ordinating rather than the authoritative nature of the planning system, the emphasis which they place upon the existence of diversity, democracy and opportunity. As the Soviet regime becomes more stable, civil liberties themselves reappear. The new constitution, drafted in 1936, provides for universal secret suffrage, responsible parliamentary government, equality for women and members of all races, the right of voluntary organization, the inviolability of the person and the home, freedom of conscience, of worship, of speech, of press and of

assembly. It also guarantees rights which may sound strange to those accustomed to capitalist society—the right to work and wages, the right to rest and leisure, the right to maintenance in old age, sickness or incapacity, and the right to education. Whatever may be said of past or present practice, the enunciation of these principles in the new fundamental law indicates a significant aspiration.

The great dangers to liberty now threatening us arise, not from the characteristics of a socialistic regime after it becomes stable and accepted, but from the conflict accompanying the breakdown of the old regime and the transition period.

If the masses are able to satisfy their needs, if they can express their leading purposes by a peaceable change, not resisted to the utmost by those who have something to lose, then we may escape the ravages that inevitably accompany war, violence or revolutionary dictatorship. But if we have not enough political competence to bring the emergent struggle to an issue in these terms, and as a result the old system breaks up in confusion, and is supplanted by a new order which must defend itself against the forcible resistance of reactionaries, then a large amount of suffering and loss of civil liberties must be expected during the transition period. It is not the operation of a planned system that requires this dictatorship, but the violent change from one system to another. We saw much the same phenomena years ago in England, in France and even in this country, when the liberal revolutions themselves occurred. America suffered substantial restriction of civil liberty in the Civil War and in the

World War. No government can or will allow the exercise of much freedom when it is threatened by forcible opposition, either from abroad or within its borders. This generalization applies alike to democracies and autocracies, to capitalist governments and socialist ones. The ultimate conditions of freedom are relative abundance, substantial equality and general assent to the dominant purposes of the state. Civil liberties flourish only in prosperous and stable societies.

With good reason we have to fear the violent upheaval that will probably come if we do not manage a peaceable transition. But what we ought to fear most of all is the violence and dictatorship that are likely to be applied by the rulers of the existing society in their extremity, if they come to be seriously threatened. A dictatorship preparing for a new order that will express the needs of democracy and equality under the conditions of modern industry is endurable because it is creating the essentials for its own disappearance, but one that suppresses change in the interest of outworn institutions and privileged classes, one that discards science and reason altogether for prejudice, one that enforces the continuance of an economy of scarcity, is pure loss. The forces that might incite the latter kind of dictatorship in the United States are those that have recently been talking most volubly about liberty. It would be a terrible betrayal of the American liberal tradition if, because we allowed them to monopolize this tradition and maintain their own liberty by force and deceit, they were able to impose upon the rest of us a complete and possibly a final loss of democracy and equality.

The immediate problem is to build up the forces making for intelligent and necessary change, to keep the way open for persuasion and democratic action, without calling down upon our heads violent suppression by reactionary groups. It is a critical and difficult problem, perhaps impossible of solution. There are those who fear fascism so much that in spite of the theoretical possibility of a better social order they would remain inert in an attempt to protect the substantial amount of well-being and liberty that we already have from the attack of the forces that are frightened by suggestions of drastic change. But such<sup>4</sup> counsels overlook the real nature of fascism. It derives its popular support from persons already suffering and deeply disillusioned by the breakdown of the old regime. If capitalism cannot produce general satisfaction, it arouses discontents that are bound to be channeled in one direction or another. A fascist movement itself becomes strong only in a period of social breakdown, when change of some sort is required. It parades in revolutionary guise. If capitalism works well enough, there is no chance either of supplanting it with socialism, or of suffering a fascist dictatorship. If it does not work well enough, a rapid and widely supported advance to socialism is the only possible defense against fascism.

To this end the only sensible preparation is the fullest possible use of traditional American liberties—free speech, free association, the ballot-box, defense of democracy and equality. The American tradition implies every purpose and every method that a socialist society could need. This fact must be more widely understood. It is an immensely powerful instrument of persuasion. In



a modern industrial state with democratic traditions, conspiracy and insurrection are almost certain to fail, no matter in whose interest they may be employed. Those who win an enduring victory will be those who arouse the widest and most lasting popular support. The first and essential task of any movement looking toward a new order is to win control by democratic means. That is the one chance of preserving liberty in transition. If violence then breaks out, if, as in 1860, we are again confronted with civil war through the recalcitrance of those who will not recognize the authority of popular government, control of that government by those who favor the new order provides the best chance of eventual victory.

Liberty can be preserved only through courageous struggle, it can be enlarged only through a wider understanding of its essential nature. Necessary social change can be made popular only by association with traditional American symbols. This association is legitimate. Liberalism, revived and transmuted, is the sanction for change.

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